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New York (State) Board of  
Social Welfare

In the matter of the  
appointment by the...

[New York?]

[1916]

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In the Matter

of

The Appointment by the Governor of the State of New York of CHARLES H. STRONG as a Commissioner to examine and investigate the management and affairs of the office of the Fiscal Supervisor of State Charities; the State Board of Charities; the Sites, Buildings and Grounds Commission; the Building Improvement Commission and the Salary Classification Commission, and to report with recommendations with regard to what changes, if any, are advisable in the laws of the State relative to affecting the several departments of the State under investigation.

Brief on Behalf  
of the  
State Board of  
Charities.

In the Matter

of

The Direction by the Governor of the State of New York to the said CHARLES H. STRONG to investigate the charges made by the Commissioner of Charities of the City of New York against the State Board of Charities, which charges, among other things, aver that certain of the child-caring institutions employed by The City of New York, which have received the certificate of approval of the State Board of Charities, have been found to be actually in an unfit condition to provide proper care for the children sent to them.

FOR THE STATE BOARD OF CHARITIES.

JOHN M. BOWERS, of Counsel.

JOHN J. HALPIN, }  
WILLIAM C. BOWERS, } Assistants.

In the Matter

of

The Appointment by the Governor of the State of New York of CHARLES H. STRONG as a Commissioner to examine and investigate the management and affairs of the office of the Fiscal Supervisor of State Charities; the State Board of Charities; the Sites, Buildings and Grounds Commission; the Building Improvement Commission and the Salary Classification Commission, and to report with recommendations with regard to what changes, if any, are advisable in the laws of the state relative to affecting the several departments of the state under investigation.

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Brief on Behalf  
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## STATEMENT.

At the first opportunity, to wit, on the 9th day of December, 1915, the State Board of Charities appeared before Commissioner Strong and the Board and each of the members of the Board entered their appearance in this proceeding, and tendered their assistance to the fullest extent in the investigation.

The charges made by the Commissioner of Public Charities were contained in a letter which, while dated December 31st, 1914, was not sent to the Mayor of the City of New York until late in the autumn of 1915.

Such letter was transmitted by the Acting Mayor of the City to the Governor, and the above appointment followed the receipt of such letter.

The Commissioner of Public Charities, John A. Kingsbury, has been prominently backed in this proceeding by Homer Folks, the well-known Secretary of the State Charities Aid Association.

These two gentlemen went together to the Governor when the charges were presented.

Mr. Folks had another interview with the Governor on the subject of this investigation in which Mr. Folks suggested the names of certain citizens to be considered by the Governor in appointing a commissioner to make the investigation asked by Commissioner Kingsbury. Among such names was that of Mr. Charles H. Strong, the present Commissioner. Mr. Kingsbury, however, had no knowledge as to the names that were so presented (p. 8593).

## POINT I.

### CARE OF DEPENDENT CHILDREN IN THE CITY OF NEW YORK.

For more than sixty years, the City of New York has cared for its poor children by the use of private charitable institutions.

In such institutions live 25,000 of the waifs of the City.

These institutions are selected from time to time by the City.

It employs institutions or not, as it pleases; pays such prices as it pleases.

Imposes conditions as to management.

As to clothing.

As to food.

As to fire protection.

As to health regulations.

As to education.

As to vocational training.

As to industrial training.

Terminates at will the commitment of children.

The Budget of 1911 went so far as to provide that the Comptroller of the City might reduce the rates provided in the Budget.

Finally, to the end that the City could keep itself completely informed as to the management of these institutions, the Charter provides that the Mayor of the City or the President of the Borough in which a child-caring institution is situated, shall be notified of all meetings of the boards of management, and may attend the same in person or by proxy.

See a valuable collection of the laws, decisions and regulations relating to the control of private charitable institutions in the City of New York, made by William A. Prendergast, Comptroller, in the year 1911.

Whether the above conditions were or were not imposed by Budget provisions at all times is immaterial.

The fact remains that the City of New York stood in relation to these private charitable institutions, even more supreme than that of a corporation in relation to its employees.

That the City had neglected its duty in the premises is stated by Comptroller Prendergast in the above document.

Such criticism he concludes with this language:

"These and many other institutions vitally affecting the welfare of thousands of children who by misfortune are brought into the care and keeping of the public authorities, it has been apparently been nobody's business heretofore to solve."

### DEPENDENT CHILDREN ARE COMMITTED TO THESE INSTITUTIONS BY THE COMMISSIONER OF CHARITIES.

Homer Folks was Commissioner of Public Charities of the City of New York during the years 1902 and 1903 (p. 7438).

He claims to have been deeply interested in the welfare of the poor children in the City of New York.

He never once, while Commissioner of Charities, inspected or even visited any one of these institutions to which children were committed for the purpose of ascertaining the condition of such institution or the condition of the children.

It has been asserted in this proceeding that the City's children are the most helpless of its dependents; the most in need of kindly City action; the most in need of protection against unsatisfactory conditions in their lives.

Think of the situation: Homer Folks (the controlling factor in the State Charities Aid Association) never, while Commissioner of Charities, even making an inquiry as to the condition of the children whom he was committing to the institutions now attacked.

Not only this, but while he received every report of inspection made of such institutions by the State Board of Charities, he never took the trouble to read one of them. (See pp. 7681 et seq.)

#### **THE POSITION OF THE MAYOR IS BUT LITTLE BETTER.**

It is true he has not made his living from charity work. He has, however, held official positions in the government of the City of New York for many years.

Upon this subject, the Mayor testified (p. 3062):

"Q. So I understand that the City of New York according to your views, is justified in employing institutions to take care of its dependent children, and after looking to the facts which determine whether or not the children have really been kept in the institution, and there is no padding of the rolls that everything as to the physical care of the children, as to their health, as to their education, as to their vocational training, is thrown aside by the City and is left by the City to what they claim is the inspection and direction of the State Board of Charities, is it not? A. Now, Mr. Bowers, that has been the position of successive City governments up to this one."

That question was on cross-examination and gathered together views expressed upon direct and cross by the Mayor.

Worse than this, the Mayor confessed to familiarity (p. 3028) with the above report of Comptroller Prendergast; and said, at page 3030, that an examination of physical conditions at that time showed deplorable conditions highly objectionable from the City's point of view. This was in 1911.

The indifference to the welfare of the dependent children the City's wards thus established against Homer Folks and Mayor Mitchel is an extraordinary exhibition of studied neglect of a high duty.

Homer Folks excused himself by saying he was too busy. Mayor Mitchel's excuse was that it was the duty of the State Board of Charities.

Homer Folks might better have neglected everything else than to have neglected these children.

Mayor Mitchel is a lawyer. He had but to read the Constitution to know that the claim that the City's responsibility for these children rested on the State Board, was false.

**Fair-minded people will scoff at the excuses of these men.**

It is distasteful thus to be compelled to criticise the chief executive of the City and the Executive Head of the State Charities Aid Association.

There is no alternative.

It seems incredible these two men should have fathered charges against the State Board of Charities for neglecting the welfare of these children.

Yet the charges now under consideration are in important part their work.

Mayor Mitchel suddenly becomes interested in the welfare of these children and feels (M., p. 3030) that his administration should do all in its power to ameliorate the conditions under which these children live.

Whereupon, he directs Mr. Kingsbury to go into the matter in the hope that, by calling attention to the conditions in some of these institutions, more substantial supervision and more effective discharge of its duties would be obtained from the State Board of Charities (pp. 3031 et seq.)

Kingsbury, even before he graduated as teacher, went into the employment of the State Charities Aid Association (M., p. 2877), and continued for the most part in that or other charitable employment largely under the supervision of Mr. Folks until he was appointed Commissioner of Public Charities (M., p. 7707).

From the time of his appointment as Commissioner,

Homer Folks conferred with him as to the administration of his office and as to the appointment of subordinates (M., p. 7624).

Thus, we have Kingsbury in the office of Commissioner of Public Charities by the appointment of the Mayor and under the supervision of Homer Folks.

Kingsbury prepares the charges that are now under consideration and takes them to the Mayor, who approves them.

They were not, however, taken to the Mayor until they had been submitted to Mr. Folks.

Owing to the Mayor's illness, the acting-Mayor sent the charges to the Governor, and the two persons who took them to the Governor were Kingsbury and Homer Folks. The latter had already been in conference with the Governor on this question.

They were the last two men in the State of New York to have dared to present such charges.

If the conditions in any of the institutions had been such as depicted, Kingsbury was bound to have taken effective steps to correct them.

Mayor Mitchel could have compelled any improvements in the institutions the City desired.

The duty was clearly upon the City of New York.

If this be denied by anyone because of the suggestions that the City could not compel improvements because of lack of room in the institutions, we have simply to say that was the business of the City and of the City alone.

If it found such a situation arising, it was its duty to have employed sufficient institutions for its needs.

## POINT II.

### CONSTITUTIONAL LIMITATIONS UPON THE STATE BOARD OF CHARITIES.

The Constitution says:

It "shall visit and inspect all institutions whether state, county, municipal, incorporated or not incorporated, which are of a charitable, eleemosynary, correctional or reformatory character."

Section 14 further provides concerning payments by cities to charitable institutions under private control:

"No such payments shall be made for any inmate of

such institution who is not received and retained therein pursuant to rules established by the State Board of Charities."

The words "visitation" and "inspection" mean inquisitorial powers and nothing more; no administrative powers.

The language of the Act of the Legislature creating the State Board of Charities is:

"The State Board of Charities shall visit, inspect and maintain a general supervision of all institutions \* \* \* which are made subject to its supervision by the constitution or by law."

These words are in accord with the Constitution. To use the word "supervise," if anything, merely makes more definite the limitations upon the power of the State Board.

It was the duty of the State Board to visit, inspect and supervise the children's institutions used by the City of New York.

There was no duty in the way of administration or management.

Schedule "D" is a Brief of Law sustaining this position.

## POINT III.

### THE STATE BOARD'S EFFORTS TO AID DISBURSING OFFICERS.

It appears, however, that the authorities of New York City, in the year 1895, with various of the private charitable institutions in receipt of public money to the State Board of Charities to issue certificates to the effect that the inmates received in such institutions had been received and retained therein pursuant to rules adopted by the State Board of Charities in pursuance of the mandate of the Constitution.

The Board, while willing to do everything within its power to assist the municipal authorities, was advised by the Attorney General that it was not the duty of the Board to certify to the disbursing officers whether or not inmates had been received and retained in accordance with the rules adopted by the Board; that it was the duty of the disbursing officer to ascertain such fact for himself.

The officials of New York City seemed to continue appre-

hensive lest criticism might be made by the State Board of Charities if the City paid bills of the private charitable institutions without producing proof which would be satisfactory to the State Board of Charities that its rules had been complied with.

This resulted in the State Board passing a resolution in October, 1896, to the effect that on receipt by it of certificates from the officials of the various charitable institutions certifying that the institutions had complied with its rules, it would certify to the City that such evidence was satisfactory to the State Board.

This certificate in no way states that the rules or regulations have been complied with.

It merely states that the institution has filed with the Board certificates that the institution has complied with the rules of the Board and that such evidence is satisfactory to the Board.

There is not a word in the certificate which can in any way be distorted to mean that the State Board is itself certifying that the rules and regulations have been complied with.

Whether this arrangement was beyond the power of the State Board is not very material.

It imposed upon the Board a certain duty. It became its duty to refuse to say that the evidence that had come to it from a particular institution was satisfactory if the State Board had information to indicate the contrary.

The arrangement has been of great value to the charitable interests of the State.

It has continued for over nineteen years.

The State Board was practically without inspectors at the time of the adoption of the Constitution.

In 1896, it obtained some inspectors, and by 1897, obtained a sufficient number to enable it to visit the various private charitable institutions in the State once a year.

The rules that were adopted by the State Board have been changed from time to time, but always in the direction of the development to the highest standard (though at times by slow degrees) of the institutions subject to its supervision.

It was well known, however, to the Board that while certain institutions highly favored in a financial way were able to fully comply with suggestions of the Board, many others, owing to their financial needs, were unable to do so.

In the instance in which the Board found that whether

for this or any other reason, the institution failed to comply with some vital provision, it declined to issue the certificates.

When, however, the conditions (though desirable) were not vital and would not have justified the Board, in pursuance of the provisions of the statutes authorizing it to take action against an institution, it continued to issue the certificates in the hope that in the course of time the suggestions of the Board would be complied with.

This has been especially the case with regard to industrial and vocational training; also with many such matters as backless benches and general housekeeping conditions. The consideration in detail of the success met with in these matters is reserved for the point in this brief in which we consider the evidence bearing on the charges made against the State Board.

The reference to the duty of the State Board of Charities at this time is only for the purpose of establishing the relationship that existed between that Board and the City of New York.

Each and all of the reports that were presented to the State Board concerning private charitable institutions employed by the City of New York were sent with the Board's ratings to the Comptroller of the City of New York.

Whenever asked, the reports of the State Board were likewise sent to the Commissioner of Public Charities of the City of New York.

During all this period of time, the statutes of the State imposed upon the Commissioner of Public Charities of the City of New York an active duty to himself certify that the rules and regulations of the Board had been complied with in the various institutions whose bills he approved. That statute is Section 661 of the Charter, and reads:

"No payment shall be made by the City of New York to any charitable, eleemosynary or reformatory institution, wholly or partly under private control, for the care, support, secular education or maintenance of any child surrendered to any such institution or committed to, received or retained therein, in accordance with sections 664, 665, 666 and 667 of this act, except upon the certificate of the Commissioner of Public Charities that such child has been received and is retained by such institution pursuant to the rules and regulations established by the State Board of Charities."

It appears, however, that the City of New York has con-



tinued to pay the bills of the various charitable institutions employed by it without such certificate being attached.

No denial is made of the existence of the section of the Charter in the report of Comptroller Prendergast above referred to, nor does he deny its full effect.

The records of the court show that in the year 1900, a proceeding was instituted by the New York Juvenile Asylum against the then Commissioner of Public Charities, requiring him to attach such certificate to certain bills. The Court sustained such demand. See opinion of Judge Leventritt, reported in 31 Misc., 445; affd. 54 App. Div., 637.

The City of New York knew at all times that the State Board of Charities was not engaged in the management of any of the institutions in question; that it took no part in their administration.

It knew the defects that existed in the various institutions from the reports that were sent to the Comptroller.

The State Board could not interfere with any of such institutions unless the institution violated some mandatory statute of the State.

#### POINT IV.

#### THE CHARGES AGAINST THE STATE BOARD OF CHARITIES.

These are contained in a letter addressed by the Commissioner of Public Charities to the Mayor of the City of New York.

While the letter is dated the 31st day of December, 1914, it is *not* claimed to have been sent to the Mayor of the City until the month of November, 1915.

This letter was in answer to the directions given by the Mayor to the Commissioner of Public Charities at the time of his employment.

It contains the language:

"It has been the custom in the past for the Department to receive and accept the reports of the State Board of Charities on these various institutions, without making any inquiry itself as to the kind of care afforded the children for whose support it is paying." (M., p. 24).

This is again a distinct declaration of the duty to its poor children so sadly neglected by the City of New York.

The letter proceeds:

"During the year 1914, however, we found that the conditions in some of these institutions bearing the certificate of approval of the State Board of Charities were such as to be little less than public scandal and disgrace. The agents of the Board, presumably without the full knowledge of all the members of that body, had apparently gone through their inspection of these institutions with both eyes closed or with one auspicious and drooping eye. Naturally when we found on the certified lists of the State Board, institutions in which the beds were alive with vermin, in which the heads of boys and girls were itching with uncleanness, in which antiquated methods of punishment prevailed, and in which the children were disgracefully overworked and underfed, we found it necessary to decline to commit children to these institutions, and to decline to accept as reliable the official reports of the State Board of Charities. It is obvious that it should not be necessary for the City to duplicate in expense and effort the work intended to be performed by an already existing public agency." (M., pp. 24-25.)

These allegations are met in detail in Point X at the time we consider the charges from the standard to which the Committee say the institutions must be raised.

The letter then proceeds to recite, for the first time in at least twenty years past, that some responsibility attached to the City in the matter of looking after these institutions.

Thereupon the report continued:

"It was for this reason that we determined to try an experiment by the employment of certain heads of private child caring institutions, together with Deputy Commissioner Doherty, to ascertain the conditions in which the City's dependent children were being brought up."

Prior to this committee doing any work, the Department of Public Charities stopped committing children to four institutions. Among these was the Mission of the Immaculate Virgin, Boys' Dept.

This it claimed to have done by reason of the character of the reports that it had received from the State Board of Charities.

It also clearly appears that the Deputy Commissioner who was to serve upon this committee had by reason of his employment in the Catholic Home Bureau been long familiar with the exact conditions existing in most of these institutions about to be criticised. (See p. 1649.)

Within the last few years, there has grown up what are said to be modern child caring conditions.

Among the leaders in such movement are said to be Dr. Bernstein, Dr. Reeder and Deputy Commissioner Doherty, who constituted the Advisory Committee, with the addition of a few young women taken from the department payrolls or as volunteers.

It was further stated by the Commissioner of Public Charities, in his letter, as follows:

"Conspicuous among the results of the year's work has been the setting up of definite standards and ideals to be attained by the various private institutions which care for charges of the City." (M., p. 23.)

This statement was wholly at variance with the claim of the Committee.

The evidence shows that the alleged hope of the committee was to ascertain conditions in the institutions in order to enable them to form standards. (See evidence of Doherty, p. 1653.)

We wholly failed in the first examination of Mr. Doherty, Mr. Kingsbury, Dr. Reeder and Dr. Bernstein to obtain from them any statement of any.

The committee proceeded to visit certain institutions and make ratings.

Instead of having two headings as had the State Board, it had three headings: Plant, Administration, Ideals.

Toward the close of the investigation, however, Doherty was compelled to disclose the standard demanded from which the ratings were made.

This is his standard:

*Institution to provide an adequate force of physicians.*

*General practitioner coming daily.*

*A surgeon on the staff; an oculist on the staff; an aurist on the staff; an orthopaedic surgeon on the staff.*

*Children to be weighed upon admission; thorough physical examination given.*

*Periodically thereafter, children to be weighed and remeasured; mentality to be gauged.*

*Proper quarantine facilities.*

*Two beds in the quarantine for every 50 children.*

*The quarantine to be all the word implies.*

*That the children therein should be given a daily schedule.*

*That their education should not be neglected while in quarantine.*

*That quarantine should be equipped with all facilities, dining-room, dining-room equipment, play room facilities; recreation facilities; toys; outdoor playground facilities, etc.*

*Infirmaries should be equipped and up to date with all modern facilities.*

*There should be a dispensary treatment for children.*

*As to the building, it should be of the cottage type of institution.*

*If congregate institutions adopted, the building should be so arranged as to provide a modicum of family care.*

*Children to be divided into groups of fifty. Each such group to have its own play rooms; its own social rooms; its own recreation rooms; its own combination rooms.*

*Children should be seated at tables with not more than eight—preferably six children at each table.*

*Full table equipment.*

*The children should be grouped, starting from the younger and grading to the oldest.*

*The dining room should approximate the restful appearance of the ordinary dining room in the ordinary home.*

*In the dormitories, the children should have a chair to sit upon.*

*As to bathing, every five or six children should have one spigot.*

*As to play, a cheerful and social room where children could get together and sit down just as all of us do on a comfortable chair. The room to be cheerful and bright, equipped with tables, a phonograph or two, a piano; books and magazines on the table; the ordinary children's games.*

*Another room for rough play, where children could exercise themselves physically.*

*A suitably well-equipped outside playground, with slides, giant strides, see-saws, teeter ladders, and so on.*

Each group of 50 to have all those rooms.

*There should be, in addition, a proper system of gymnastics.*

*There should be a well-equipped adequate library, with carefully selected books appealing to the child nature and the child sense.*

*A competent person should be in charge of the library, so the reading should not be haphazard.*

*The children should be kept in touch with current life by providing magazines, current literature, and so on, so that when the children left the institution they would be somewhat equipped and conversant with present-day affairs.*

*Educational facilities should approximate conditions maintained in public schools. Teachers to be competent and qualified; methods modern and they themselves progressive. Minimum vocational requirements should be provided for the boys; carpentry, basketry and woodwork, machine work. For the boys in the advanced class, stenography and typewriting, bookkeeping.*

*On the girls' side, domestic science, cooking, dressmaking, millinery, embroidery work.*

*If the institution be in the country, the children would have their own individual gardens and be allowed to cultivate them.*

*Children to be encouraged by a system of rewards.*

*Children to enter into the government of their own institutions; that they be consulted on the best means of promoting a proper method of discipline.*

*As to future care, children to be followed out and watched until they had demonstrated their ability to take care of themselves. Alumni associations whereby the children mutually assist each other.*

In concluding his standard, Dr. Doherty added that wherever he had used the statement, he would like this and prefer that, he meant such was his standard.

Of course, this standard omits many things. It is, however, when taken in conjunction with some of the reports made by the committee, sufficient.

For example, the report of the Hebrew Orphan Asylum of the State of New York contains this language (p. 21):

*"Under the present conditions the Hebrew Orphan Asylum depends, even for its proper elementary classes, upon the neighboring public schools, which of course, have no regard whatever for the special problems confronting a modern child-caring institution."*

Page 22:

"There are not very many institutions that can boast of more endowed scholarships for higher education than the Hebrew Orphan Asylum. Aside from the fifty odd children maintained by the institution and residing outside of it, there are fifty other boys and girls living in the institution proper who are given an opportunity to receive an education much beyond the elementary school course. In a general way it may be said that the institution, for several decades past, has provided a high school and college education for those of its wards showing special ability."

Further on pages 22 and 23:

"The schools of the Hebrew Orphan Asylum are under the control of the Board of Education of New York City. For all practical purposes, therefore, the institution is related to the school in a manner similar to that of the ordinary family home to the public school. There is, however, this difference: In the Hebrew Orphan Asylum, the same home conditions and environment are provided for the entire school; hence, in this case, there may be a closer relation between home and school than is possible between separate family homes and the public school. There is no evidence, however, that the curriculum of the Hebrew Orphan Asylum's school gets any closer to the lives of the children than does the curriculum of the ordinary public school. There is the same isolation of subject matter in this school, the same wide breach between school interests and the every-

day affairs of the child's life as usually is found in public schools. *This is the weak spot in public school education. It should only be endorsed when it cannot be helped.*"

Doherty testifies as follows (p. 8464):

"Q. Now you stated that better than I did. The public school system would naturally not have in mind the problems confronting a modern child caring institution on the question of vocational training. Is that right, are we in accord now? A. Yes."

He further testified that the child of the ordinary citizen who goes to the public school, while he gets such advantages as the public schools offer, does not get what is sufficient for the destitute children committed to private child-caring institutions so far as vocational training is concerned (p. 8466). Further on, that the public schools cannot know the individuality of the child as those in charge of an institution should know it.

That the institution on the question of vocational training should study out the individuality of each child and then take the responsibility itself on the question of vocational training (p. 8467). Also (pp. 8469, 8471, 8472).

See further as follows (p. 8472):

"Q. But Dr. Bernstein claims openly that he thinks the child committed to an institution should receive greater advantages, educational advantages, vocational and industrial training, greater again, greater attention paid to his mental condition, greater attention paid to his physical needs, greater attention paid to strengthening the child by proper food than it is expected should be given to the child of ordinary parents?"

A. I would not say that he expects greater; I say that he expects the same that the ordinary good father and mother in the home would give their children.

Q. Well, doesn't he go beyond that; doesn't he say that by reason of—

A. (Interrupting) Yes, of special handicaps; and I believe you are in accord with it too.

Q. Didn't he say—it doesn't make any difference what I am in accord with—I am trying to find out what you are in accord with and Dr. Bernstein. Doesn't Dr. Bernstein openly state—I think I heard him state—that these children by reason of their heredity, by reason of their early environment, should receive in all the matters concerning which I have made a statement, even greater advantages than are given to the child of the ordinary citizen?

A. Well, I do not know whether he says that; but I say it."

Later the witness refers to the quotation above made from the report to the effect that there is the same isolation of subject matter in this school as usually is found in public schools, as being written by Dr. Reeder and accepted by him.

He admits (p. 8474) that the sending of children to high school and college would have a bearing upon the rating that the committee gave.

The witness specifically admits (p. 8472) that when he rated these institutions, he did it from the standpoint that the destitute children in such institutions should receive greater educational facilities than are given ordinarily in the public schools.

Dr. Bernstein, at page 8577 of the record, agreed with the above views.

In the City's report concerning the Boys' Department of the Mission of the Immaculate Virgin, at page 22, will be found:

"To make effective the recommendation of the committee, it is earnestly urged \* \* \* that the superintendent of the Mission of the Immaculate Virgin visit periodically child-caring institutions where the things recommended in this report daily may be seen in operation.

Brother Barnabas, Dr. Bernstein and Dr. Reeder stand ready to help in every possible way. They are doing exactly what has been recommended and a visit to their institutions will prove most beneficial."

While the committee never fixed a standard, the standpoint from which they rated and from which they criticised is thus fully shown.

In the sense that public funds are sought to be given to certain citizens and not to others of the same class as a result of modern child-caring work, brings us closer to socialism than any of the other fads of recent years.

Whether Reeder's and Bernstein's institutions are in truth to be beneficial to the next generation remains a matter of doubt.

Bernstein claims that he can give his children in nine years the education commonly given in the nation at large in twelve years.

From the standpoint of educational experience, the result must be failure.

A most cursory examination of the city reports in this case shows such extravagant demands as to forbid any serious consideration being given to them. (See extracts sustaining this claim, marked Schedule "A.")

The evidence above quoted, both from Doherty's and Bernstein's lips and from the record of those views as to the Hebrew Orphan Asylum, shows a fanciful, ideal and impracticable development, claimed for this generation of dependent children.

Dr. Reeder wrote material parts of such report.

The generations of Americans since the days of the Revolution have received no such consideration. Indeed, for the most part, the foremost men of the nation obtained as children little but the ordinary grammar school education.

That public funds should be used for the maintenance and education of dependent children of the City of New York is freely conceded.

It is not, however, conceded that the taxpayers of the city should be called upon to furnish the luxuries of life and higher education to be found at the Bernstein and Reeder institutions to any particular children.

A reading of the book of Dr. Reeder, "How Two Hundred Children Live and Learn," a study of the pictures contained in his book, shows the same luxuriousness of child life to be found in the *most exclusive* private schools of this country.

Among such pictures are, "Coasting on the Long Hill"; another, "Doing Stunts on Bars"; another, "The Swimming Pool at the River Bank"; another, "Picking Apples in the Autumn"; another, "Green House"; another, "The Gardening School"; another, "Fourth of July Celebrations." All these, as stated by him, are necessary and proper features of modern child-caring institutions.

It may be desirable that all possible comforts and advantages should be brought into the life of every child. It is quite another thing that these should be furnished at the public expense only to one class of children.

While it may be highly desirable that the utmost educational advantages should be given to all children, if given at the public expense, the same must be given to all and not only to a part.

The question is not a theoretical one—it is a practical one.

The expenditures made by the City for its dependent population are at the present time enormous and increasing at a rapid rate.

The year 1913 before the present administration, such expenses were as follows:

For private charitable institutions ..... \$4,835,990.00

For the Department of Public Charities .....	3,621,806.38
For Bellevue and allied hospitals .....	1,363,976.00
in all .....	\$9,821,772.38
For the year 1916, the same items are as follows:	
For private charitable institutions .....	\$5,483,875.00
For the Department of Public Charities .....	4,326,252.50
For Bellevue and allied hospitals .....	1,448,518.00
Total .....	\$11,258,645.50

This shows an increase of..... \$1,436,873.12

The money saved to the City of New York by its use of private charitable institutions is shown by the following figures:

"A SUMMARY STATEMENT SHOWING THE TOTAL EXPENSES FOR THE YEAR 1913 OF PRIVATE INSTITUTIONS RECEIVING PUBLIC FUNDS FROM THE CITY OF NEW YORK (INCLUDING PROTESTANT, CATHOLIC AND HEBREW HOSPITALS, ASYLUMS, REFORMATORIES, SPECIAL AND COUNTY AND STATE INSTITUTIONS) AND THE PROPORTION THEREOF PAID OUT OF FUNDS RECEIVED FROM THE CITY OF NEW YORK AND THAT PAID OUT OF OTHER FUNDS OF THE INSTITUTIONS.

	Operating Expenses.	Maintenance of Plant and Equipment plus Fixed Charges.	Total Expenses.	Division of Expense.	
				By Payments from City of New York for Services in 1913.	By Payment from Other Available Funds.
Protestant ...	\$5,244,569.11	\$914,532.64	\$6,258,101.75	\$1,142,978.77	\$5,115,122.98
Catholic .....	4,167,468.56	602,956.40	4,770,424.96	2,748,157.25	1,972,267.71
Hebrew .....	1,891,332.23	192,977.62	2,084,309.85	743,559.65	1,340,750.20
	\$11,102,362.70	\$1,711,436.66	\$12,813,799.36	\$4,633,295.67	\$8,430,503.69

As to the precise question under consideration, a comparison of the per capita cost for each child at the Reeder and Bernstein institutions and the amount of money actually paid to private charitable institutions by the City, are as follows:

"The cost of maintenance of certain private charitable institu-

tions, to the standard of which it has been asserted all the private child-caring institutions to which the City of New York commits its dependent children should be raised is as follows:

<i>Dr. Bernstein's institution at Pleasantville (1915):</i>	
Average number of children (in institution) .....	605
Cost of maintenance .....	\$155,734.12
Per capita cost .....	257.16
A per capita cost for the number of children cared for by private institutions for the City, at the above figures, would be the sum of .....	\$5,956,339.92
The sum actually paid by the City of New York is ..	3,262,224.36
Showing a saving of .....	\$2,694,115.56

<i>Dr. Reeder's institution at Hastings-on-Hudson (1914):</i>	
Average number of children .....	220
Cost of maintenance .....	\$61,325.05
Per capita cost .....	278.75
A per capita cost for the number of children cared for by private institutions for the City, at the above figure, would be the sum of .....	\$6,455,207.50
The sum actually paid by the City of New York is ..	3,262,224.36
Showing a saving of .....	\$3,192,983.14

The present allowance by the City to the private child-caring institutions is at the rate of \$2.50 per week in congregate institutions and \$3 in cottage institutions.

## POINT V.

### THE PROPOSED STANDARD WOULD PREVENT THE FURTHER MAINTENANCE OF A GREAT NUMBER OF PRIVATE CHILD-CARING INSTITUTIONS.

The evidence is clear that the improvements suggested by the Doherty committee are in most instances prohibitive.

For many years, the State Board of Charities, by repetition in its inspection reports, and by correspondence, has urged higher standards as to educational, industrial and vocational training.

It has also urged a great number of improvements in many departments of the different institutions.

The invariable answer when the suggestions have not been

met, has been that the institution had not at the time the funds to make the improvements, though, by degrees, many of the improvements are made.

The evidence of Mr. Wallace, Superintendent of Inspection of the State Board (p. 8596), upon this subject was accepted by all parties.

The statement is made by Mr. Stewart, President of the State Board, in regard to the Immaculate Virgin, that Father Fitzpatrick said he did not feel justified in making improvements that would necessarily increase the indebtedness at that time (pp. 5879-5880).

See also concerning St. Michael's (p. 5920):

"Father Gleason said he had spent \$200,000 in erecting buildings on the grounds of about a hundred acres, and also he at times threatened to close up the institution if the board insisted upon the recommendations being met."

State Board's 1911 report to the Legislature (p. 303):

"The greatest difficulty encountered by the managers of institutions seems to be the lack of funds for the proper carrying out of the purposes for which the institutions were established, and the per capita amount paid for the care and maintenance of inmates, at public expense, is insufficient to provide for suitable care and maintenance and at the same time to carry on, in the case of homes for children and reformatories, proper courses of training for the inmates. To meet this deficiency there must be either an increase in private contributions or larger appropriations made by counties, cities and towns for the care of their dependent wards."

The uncontradicted evidence in this case establishes beyond the shadow of a doubt diligent efforts on the part of the State Board to induce the institutions which are subjected to criticism in this proceeding to improve their conditions; such efforts on the part of the Board have been continued from year to year, have been pressed by correspondence, and by the appointment of committees to visit the institutions.

This is now referred to for the purpose of establishing the impossibility of these institutions complying with any such standards as are suggested by the Doherty committee.

*If such standard be established, and these institutions cannot live up to it or closely approach the same, the institutions must be closed.*

If closed, the children must be cared for elsewhere—either placed out or put in institutions that come up to or closely approach the standard of the Doherty Committee.

The only remaining alternative would be for the State or the City to construct its own institutions to care for these children. The latter is not to be seriously considered.

The cost of State institutions put in evidence before the Commissioner is prohibitive of any such consideration.

If it be claimed that there will be no material cost in the institutions under consideration building themselves up to the standard avowed by Doherty's committee, we submit that the claim on its face is fallacious.

Laying aside the consideration of the cottage plan, it is clear in the first instance that the saving that comes from the maintenance at the same time of a considerable number of children will be taken away.

If the cottage plan be omitted, Doherty distinctly states there must be a unit of fifty, leading their own life by themselves; having their own dining rooms; their own play rooms; their own dormitories.

Bernstein's suggestion that some play apparatus, some industrial, some vocational apparatus for club expenses and carfares to public school might be obtained for a comparatively small figure would almost seem playing with the situation. It is set at rest by Reeder's announcement, that the main cost of the difference between what is and what the committee say should be, is the cost of education (p. 2641).

Moreover, this evidence of Reeder's refers to a comparison of the attacked institutions with his own.

The bitterness of Dr. Reeder against the Catholic institutions was exemplified at many points.

At page 2575 he criticises the amount, \$25, salary paid teachers, claiming it was half the minimum amount that should be paid a teacher—\$60.

He announced that New York is the worst institution-ridden State in the United States (p. 2586).

He seems to have misunderstood the Department of Public Charities, for he says (p. 2590) that he should say that the duty of the work of the department was to properly safeguard the rights and welfare of the children who were committed to them.

He was evidently quite unacquainted with Mr. Folks' administration of his office.

*Further (p. 2587), the children are a sort of revenue to the institutions; that in some instances they make a profit which goes to the institution and is used to extend the plant, or might be used to sustain or continue or to build up a religious order.*

**What, then, is the meaning of this so-called child-caring movement?**

*It interests some enthusiasts like Doherty; but its true backing is to be found in those who have in mind the secularization of the child-caring institutions; the child's physical and mental development; casting aside the development of the religious element; hoping to develop the child's morals by methods other than the teaching of religion.*

#### POINT VI.

**CHARITY IN ITS HIGHEST FORM IS THE FOUNDATION OF ALL THE PROTESTANT AND CATHOLIC INSTITUTIONS.**

**CHARITY CANNOT BE SEPARATED FROM THE CHRISTIAN RELIGION.**

Thus, in 1 Cor., Chap. XIII, Verse 3:

"And though I bestow all my goods to feed the poor \* \* \* and have not charity it profiteth me nothing."  
The whole chapter is devoted to charity and concludes (Verse 13):

"And now abideth Faith, Hope, Charity, these three; but the greatest of these is Charity."

1 John, 4-7th and 8th verses."

"Charity is of God and every one that loveth is born of God and knoweth God. He that loveth not knoweth not God, for God is Charity."

The Century Dictionary, first definition:

"In New Testament usage, love in its highest and broadest manifestation."

Murray, first definition:

"Christian love."

Webster's International Dictionary, first definition:

"Love; universal benevolence; good will." Quoting Chapter XIII. of 1st Corinthians.

That the word "charity" may describe benevolence and alms-giving alone we do not deny.

We, however, assert that to the mind of all Christians, charity is part of their religion. They will not willingly assent, whether Protestant or Catholic, to public or private charities of the State being secularized. They feel that the secularization of charity would take away its foundation stone.

The Christian world would stand aghast at any legislation which establishes a standard depriving children committed to charitable institutions of the opportunity of being trained in the religion of their parents, no matter what luxury or character of education may be offered in exchange. At this time the laws of the State direct the commitment of children to institutions of their parents' religious faith.

In many Catholic institutions, and in some Protestant institutions, the well-being of the children is committed to women who devote themselves to God's work on earth.

These good women are known as sisters.

The institution of nuns and sisters who devote themselves to religious orders dates back to the early period of the Christian church.

The writers on this subject agree that as early as the third century there were various sisters' community houses.

St. Augustine wrote his famous letter CCXI in the year 423 at Hippo, which letter was addressed to the nuns, and was one of direction, from which subsequently his rules (commonly known as St. Augustine's Rules, and on which are based the rules for the conduct of community houses for sisters in most instances up to date) were taken.

Authority for this statement is to be found in the Catholic Encyclopedia, being an article by Arthur Vermeersch, Doctor of Social and Political Sciences, Professor of Moral Theology and Common Law at the College of St. John Berchman, Louvain.

*That there is good reason for the belief that the attack upon*

*the State Board of Charities is a part of the propaganda to secularize the charities of this State will be felt by any fair-minded person who reads the reports that have been put in evidence in this proceeding.*

No language can be found too extravagant to describe the beautiful scenery, the wonderful environment of many of these institutions.

No language too severe to describe the defects in the play of the children.

No language too vicious to describe housekeeping defects. Yet scarcely one word is to be found in the reports commendatory of the religious life in any institution.

For the most part the reports do not mention the subject. The only references to the Christian religion are the following:

Ottolie Orphan Asylum:

"The Reverend Mr. Codduhn conducts daily prayer and addresses the children in assembly on Sundays."

German Odd Fellows' Home:

"It was stated that Sunday School instruction is given Sunday afternoons under the direction of Dr. Weaver, a Protestant pastor from Yonkers. It was also said a Rabbi will visit the institution weekly to instruct the Jewish children."

Children's Home, Mineola (referring to the superintendent):

"She is deeply interested in their religious life and conducts their devotional periods."

St. Joseph's Female Orphan Asylum, Brooklyn:

"Twenty older girls belong to this club, the function being a two-fold one—the encouragement of a positive religious attitude towards life and the solution of practical problems of conduct arising in the daily life of the children."

St. Agnes Convent Home.

"Which purpose controls in this school, the educational welfare and advancement of the children or the religious progress of the postulant and novitiate teachers?"

## POINT VII.

### THE PROCEDURE SINCE THE APPOINTMENT BY THE GOVERNOR OF COMMISSIONER STRONG.

We take no consideration of the publications made by Commissioner Kingsbury until on the eve of the hearing a publication was made in the Evening Post by the procurement of the Department of Charities.

When this article was brought to the attention of Mr. Kingsbury, he so successfully evaded the responsibility for the same that we were compelled to wait until Doherty took the witness stand to put the article in evidence.

It was written by a former employee of the Department of Public Charities.

We forgot to ask whether she had returned to its employment.

It is a distinct statement in the most malicious form of the ugliest things concerning which the Commissioner of Public Charities intended to call witnesses in the hope of destroying the various institutions attacked along with the State Board of Charities.

His acquaintance with editors of the Evening Post may have made it possible for him to obtain the publication which under ordinary circumstances a reputable paper would have hesitated to make.

At the time that publication was made, it was expected that within a week or two the issues would be on trial.

It is rarely that a newspaper dares to state things in the manner in which this was done.

It is headed:

#### "STATE VERSUS CITY CHARITIES—THE ISSUE."

The newspaper then determines the effect of the evidence by the assertion:

#### "COMMISSIONER KINGSBURY IS HAMPERED IN WORK."

Further:

#### "HIS EFFORTS TO FORCE PRIVATE



**INSTITUTIONS WHICH ARE PAID FOR  
CARING FOR ORPHANS TO BETTER  
CONDITIONS ARE CHECKED BY IN-  
EFFICIENCY OF STATE BOARD—  
MEANWHILE THE CHILDREN SUFF-  
ER—.”**

This is a direct assertion that the inefficiency of the State Board is responsible for all the conditions.

The evil character of the article is apparent.

Then the article opens with a reference to one of Warden Osborne's convicts whose criminal career is charged to his residence in a children's institution. And then comes this dastardly statement:

**“THE REASON FOR NEGLECT.**

Twenty-three hundred little babies and growing boys and girls, wards of New York City, are living in filthy, unsanitary surroundings in ten private charitable institutions, where they are overworked, underfed, their health jeopardized, and where no vocational training is given to prepare them to support themselves. Why is the Commissioner of Public Charities compelled to pay \$26,000 a month to these institutions for their maintenance under such conditions?”

Then follows what that paper chooses to say is the answer:

“Deputy Commissioner Doherty has the answer. ‘Because the State Board of Charities continues to give its certificate of approval to private charitable institutions which fail to maintain a minimum standard of care and decency.’”

Thus Kingsbury, Doherty and the Evening Post determined the case in advance of its being presented to the Commissioner appointed by the Governor.

Kingsbury is then stated to have asserted various facts tending to sustain the charges he had made.

Then follow in great detail attacks on many of the institutions.

The article continues:

“There this advisory committee found no hall, no room, not even a closet clean. The plumbing was not only old and worn, but was dirty and foul-smelling. The beds in all the dormitories and in the infirmary and quarantine ward were covered with dust and dirt, and infested with bugs. \* \* \*

“More than fifty children, suffering from vermin, ring-worm, eczema, and sore eyes and ears, were mingling with other children, and were not receiving medical treatment. The provisions for bathing were such that from eighteen to twenty-five children were obliged to bathe in one tank at the same time. \* \* \*

“This utter disregard for the ordinary decencies of life and the protection of the children's health is due to the class of caretakers which the institution has, and the salaries its managers offer. \* \* \*

“Mr. Doherty's description of the dining-room and dinner serving might well be a picture of a juvenile prison half a century ago.”

Then follows an argument as to why it was probable that his evidence was true.

Then follows an argument from the standpoint of the trained social worker and the students of sociology that unless normal children are given opportunities to satisfy their play instinct their energies must find another outlet.

At this point, the articles proceeds to aver:

“Criminal statistics show that more than half the inmates of reformatories are the boys and girls who had no toys and no playgrounds.”

It will, of course, be quite impossible to obtain any such criminal statistics. The writer of the article and the publisher of the article knew the statement could not be established when made.

Then note the following:

“The city was paying this institution an extra fee for vocational training, yet its management provided no courses in stenography, typewriting, bookkeeping, mechanical drawing, dressmaking, or millinery. The so-called vocational training amounted to little more than assigning children to help its employers.”

Then come charges as to lack of toothbrushes, insufficient and lack of nourishing food; helpings so small it was feared the children would be hungry after they had eaten their meal; girls from fourteen to sixteen compelled to work in cellar kitchens and laundry from five o'clock until noon with only a short recess for breakfast. Supervision of the older children's infirmary is left to an ignorant, slovenly woman, who has no hospital training. While nursing her own and

another baby, she was allowed to care for other children afflicted with measles and whooping-cough.

The article concludes:

"New York City is now supporting its 25,000 wards in fifty private charitable institutions. The names of those which the city department condemned as unfit are withheld because some of them have effected noteworthy reforms. Since all are of a religious character, to name any of them in this connection might be interpreted as a denominational attack. In fairness to all it must be said that no institution of the Jewish faith is included among the unfit. Catholic and Protestant homes contributed about equally to the list."

Thus was the newspaper appetite of the City set in motion.

There would be food for scandal at this hearing; the names of the institutions would come out; perhaps even the names of the managers. All the details of the household life of these institutions, one of them caring for more than 1,500 children, would be laid before representatives of the press who could select such items as were most striking. A public sentiment would be aroused which it was hoped would overthrow the State Board of Charities and destroy the institutions and carry to the front the propaganda of secularization of the private charities of the State.

No plan was ever more wickedly conceived.

That the purpose was the discrediting of the institutions as well as the State Board of Charities was not left long in abeyance.

Kingsbury tendered as a witness Madeline C. Doty. The sole purpose of calling her was to spread broadcast in the community a bitter attack upon the private charitable institutions of the State.

She testified that investigations made by her showed that an enormous number of criminals of the State came from children's institutions; that she got the record of 1,200 men at one prison and found that two-thirds of them had been in some children's institutions; that many of them did not hesitate to attribute their plight to the fact that they had been in children's institutions.

Prior to the attack of Miss Doty upon the child-caring institutions, Doherty and other witnesses to sustain the charges had been heard.

The papers had been filled with the details of the attacks made by Doherty, Reeder and Bernstein.

After them came Kingsbury. He was not satisfied with what had been already done and proceeded to take advantage of the rule applied on this hearing as to hearsay evidence, to falsely extend a criticism that had been made by Doherty on the institution of the Immaculate Virgin to an extent which created public criticism against that institution from which it may never recover.

Doherty had testified as follows:

"\* \* \* and the dispensing of the food was shocking. It was brought into the dining room in dingy, greasy pails and grease was gathered on the outside. \* \* \* After the meal, or during the progress of the meal, those same dingy, greasy pails in which the food was brought to the table were used by the boys in depositing the refuse brought out to the kitchen and dumped into barrels."

Kingsbury testified as follows:

"I can describe some of the things for you. For instance, in the Mission of the Immaculate Virgin, I shall never forget the melancholy picture that was presented to me by Commissioner Doherty verbally, and subsequently in his reports, of those little children, heads cropped, sitting at the sides of a long table, on backless benches, eating out of tin dishes, as I recall it (with their fingers in most cases, some without anything to eat at all. Then I remember very well how he described how they jumped up in military fashion at the end of the meal, took their pails, emptied them into the can from which the soup or stew had been dished and *that the same can was later taken out, as I remember, to feed the pigs with. That is one thing that I remember.*"

The statement that the same can "was later taken out, as I remember, to feed the pigs with" was wholly untrue, Mr. John K. Clark, assistant to Commissioner Strong, to the contrary notwithstanding (p. 6729). We now proceed to make such comment thereon as the occasion requires.

Doherty had testified that the pails in which certain food was brought to the boys were used later to gather up the food that was left at the table.

It has been the custom from time immemorial in many private households; in many private institutions and many public institutions, to use the plates from which food had been eaten in precisely this manner; that is to say, half a dozen plates are gathered together and the food from all is placed on one of them. From this one plate the refuse food is thrown into the garbage receptacle.

That is precisely what was done in this instance, save that a pail was used instead of a plate.

This criticism becomes, if anything, the more evil because of a similar charge contained in the report on the Catholic Protectory.

While it is not so stated in the Catholic Protectory report, it is idle to deny that in some manner the food was collected probably in these dishpans, but whether in the dishpans or not, it unquestionably went to the garbage receptacle in some article that had been used for the service of food.

The Catholic Protectory was rated high by this Advisory Committee.

Indeed the report on the Catholic Protectory was put in evidence for the purpose of proving that charges that had been made that the committee had seen only bad things in institutions, were untrue, because forsooth there were reports that had been made by the Committee (and this was one of them), which praised the institutions. (See statement of Mr. Hotchkiss, p. 8378).

It turned out, however, when these reports were submitted that they were filled with the same character of charges that had been made against the institutions which they condemned.

Not one single report was produced which did not contain serious criticisms of the institution.

Doherty was finally forced to the admission that he and his associates, Reeder and Bernstein, counted up the good and the bad points concerning the institutions, and then determined the ratings that they would give them.

Any fair minded examination of the report of the Catholic Protectory and the reports concerning the Mission of the Immaculate Virgin at Staten Island, especially when read in the light of the evidence produced in this proceeding and especially the testimony of Mr. George L. Duval, will force the conclusion that the Catholic Protectory was entitled to no higher rating and none the less subject to criticism than was the Mission of the Immaculate Virgin.

We charge that Kingsbury used the permission given him by the Commissioner to give hearsay evidence for the express purpose of spreading scandal from the very portals of the tribunal before which he testified.

That evidence he gave about the pigs formed the headlines in the papers the next day.

Those headlines were later collected and used in the en-

deavor to obtain from Commissioner Strong a report sustaining the propaganda for which Folks, Kingsbury and the Mayor stand.

This question of sending the pails to the pigs led Mr. Clark to question Sister Felicitas on the subject and his questions and the answers were as follows:

"Mr. Clark: Is it true that the food which was left in the dishes of the boys was poured back into the pails in which it was brought and then taken out into the barns?

A. They were not taken to the barns; they were taken to the scullery, emptied into the garbage can in the scullery, and not taken out, as was in the paper the other day.

Q. Were the tin pails that were used on the table ever taken out to the pigsty? A. No, sir, they were not.

Q. Were they ever taken out of the building? A. They were washed immediately, no.

Q. And scoured? A. Scoured and shined; they are made of tin."

In view of the fact that the only testimony to such effect was an assumption of Kingsbury, we cannot but feel that these questions put at an early date in the giving of testimony on behalf of the institutions, were exceedingly unfortunate.

It was against the traditions of the church that the sisters spending their lives in these institutions, should take part in a public proceeding.

It was alone the vindictiveness of the attack upon their institutions that led to their appearance as witnesses for the protection of the institutions to which they gave their life work.

The witness was garbed in her habit; necessarily she was nervous and frightened.

Mr. Clark being an assistant to the Commissioner, gave double force to his words. We felt a wrong was thus done to all Sisters of Mercy.

All this was followed by the Moree pamphlet.

The pretension that the Moree pamphlet has gotten up to meet the attack of Father Farrell will not stand examination.

The first of Father Farrell's pamphlets was published later than the Moree pamphlet.

It is true that a letter had been written by Father Farrell which was published in the newspapers on the 16th day of February.

The Moree pamphlet was undeniably in preparation on the 14th day of February. (See evidence, p. 8311).

The evidence of Moree leads to the conclusion that he brought the subject to Kingsbury's attention on the 14th day of February.

It will be recalled that we are not now dealing with the publication of a pamphlet by a third person.

We are dealing with the publication of a pamphlet issued anonymously by a man in close relations with Homer Folks and which was paid for by moneys obtained by Kingsbury.

The State Charities Aid Association cannot escape well-merited condemnation for their part in this procedure.

It was worse than if they had issued the pamphlet under their own name.

There would at least have been some element of manhood left to their acting president, Mr. George F. Canfield.

Exhibit 1122 shows that a resolution was adopted by the State Charities Aid Association on the 21st of February, 1916, which concludes:

"Be it further resolved, that we consider it highly desirable and greatly for the public interest that an impartial, thorough and complete investigation be made to the end that it may be determined upon the basis of a full knowledge what changes may be necessary in legislation and administration.

"First, in order to provide a simple, efficient and constructive management of the State Institutions.

"Second, in order to secure an adequate supervision and control of the private charitable institutions caring for dependent children who are public charges." (p. 6736.)

This resolution was sent to the Governor, the members of the Legislature and members of the State Charities Aid Association and officers of local committees and various other prominent citizens (p. 6737).

Under date of February 23rd, 1916, Mr. Canfield, sent a letter to the Governor of the State enclosing such resolutions and containing the following clause:

"I believe that everyone interested in bringing about improvements in the administration of Public Charities, will join with you in your desire that an impartial, complete and thorough investigation such as you have provided for shall be made, and that the judgment of the public be suspended until all the facts be known."

At or about the time the above resolution was adopted, to

wit, the 21st day of February, Mr. Canfield and other members of the State Charities Aid Association were fully informed of Moree's work.

This latter gentleman, when called, testified, that he was employed by the State Charities Aid Association and held the office of Assistant Secretary. That it was his work to prepare pamphlets and articles for publication, and attend to their getting to the press, on any work connected with the Association (p. 6722).

He identified the pamphlet (being Exhibit 1120) and said there were 6,000 published altogether. That some of them were delivered at his office at the State Charities Aid Association. That the others were sent to prominent citizens throughout the state.

That they were billed to him by the printer. It appears elsewhere, the pamphlets were given out at the State Charities Aid Association's office, 287 Fourth Ave.

Next he says, page 6730: That the object of the pamphlet was to meet the Farrell pamphlet.

At page 6739: that he brought the matter to the attention of the Board of Managers and they thought that it was showing a partisan interest that an officer of the Association should not show and it was only after he had taken a perfectly plain stand that what he was doing was as an individual, that he became relieved of a very embarrassing situation; that this was at a regular meeting of the Board.

Page 6744: that the managers did not express any disapproval of his sending it out as an individual.

Mr. Morree later reappeared to make the statement that he had given a wrong impression in saying that he was paying for the pamphlet, and on being questioned admitted that it was to be paid for by Mr. Kingsbury and that he stated that fact to the Board of Managers.

He then says (p. 6842) that its being an answer to Father Farrell's pamphlet is now reduced to an impression.

Page 6845. He says the facts were that Father Farrell's letter was published two or three days after he conceived the idea of this pamphlet.

Page 6847: He says it came to his knowledge that a very far-reaching and very well-worked campaign of stimulating public opinion in opposition to the investigation was going on in Albany and "that was the thing I had in mind in the original—in planning originally for some sort of a pamphlet."

"O. Well, that is to say, Mr. Moree, that your present recollection is that the idea came definitely to your mind because you had heard in some way or other that a campaign was to be started up the State?"

A. Was not was to be started, it had been already."

Page 6850: He is asked to fix the date of the meeting of the Board in which he told them of his proposed action with the pamphlet, and testifies that it was a meeting on February 16th, and could not tell whether he discussed the idea of getting out the pamphlet with any of the members of the Board then or not, but his impression was that he might have mentioned it as the meeting was breaking up.

Then he definitely fixes the date when he told a committee of the pamphlet as February 21st, and specifies the persons who were present, including Mr. Canfield.

Page 6851: He told the committee he was preparing this pamphlet and the pamphlet was going to be sent out, and that some of the members took exception to it. He told them he was doing the work personally and a great deal of it was done out of office hours; and that it was not to be paid for by the Association—the Association was not obligated to it in any way at all. That as he first spoke to them they understood it was to be a piece of work done in his usual capacity and they took very strong exception to it; that they seemed to have the feeling that it was to be State Charities and Association's work.

Page 6852: That he thinks one or two members of the Board tried to persuade him not to have done it. They felt it might involve the Association in the investigation.

Page 6853. *Says the acting president was at the meeting and had very grave doubts as to whether it ought to be done.*

*When further called about the last day of the hearing, Moree definitely fixed the date when he started the preparation of the plates for the pamphlet as February 14th (p. 58311).*

There can be no doubt from this evidence that both Moree and Kingsbury were wrong in saying that they got up this pamphlet for the purpose of meeting Father Farrell's letter.

An analysis of the pamphlet shows that it was about as unfair an attack as it lay in the power of a man to make. It was the more base for the reason that the headlines in the

newspapers had largely been the result of unfair statements of the condition of the institutions.

The main newspaper comment which appears on the first page of the paper over the head of the picture of a little boy, in large letters is

"Orphans and Pigs Fed from Same Pail—City Charity."

That headline came into the papers because of Kingsbury's deliberately spreading his scandalous statement of the situation when on the witness stand.

There were further selected the most scathing articles that could be found in any of the newspapers.

The extract from Leslie's Weekly, "Charges that the State Board of Charities Because of Political Pressure continued to Give Its Approval to Unfit Institutions," and finds in the next breath, "The hands of an honest commissioner of Public Charities are tied."

One of the headings: "Is Oliver Twist Outdone in Staten Island Home?" Even Doherty denied in open court that he had ever used the expression "Oliver Twist."

The letter that Mr. Canfield wrote to the Governor of the State was on the 23rd of February. At the time he sent that letter, he had full knowledge that Moree was having these pamphlets published and intended to send them out.

He asked suspension of judgment by the public waiting the effect of the pamphlet he knew was to be sent out.

Indeed, Mr. Canfield admits, (p. 6876) that he had been fully informed of Moree's intended action concerning the pamphlet.

Page 6878: That it was clearly expressed to Moree that the pamphlet should not be issued by the State Charities Aid Association and that was the view of all present.

He admits that the pamphlet was actually handled by some members of the Committee.

Page 6880, he says:

"I regretted that it had been done, or was to be done, because I could see this objection to it, that it might be misinterpreted by the evil-minded as inspired by the State Charities Aid Association."

He admits, (p. 6880) that he thought sending it out anonymously was a mistake.

His only reason for objecting to it seems to have been (p. 6881) that there was so much fuss being made about it.

Page 6884: That he felt whatever Moree was doing

could not reflect any opinion or attitude of the State Charities Aid Association. On the same page, he says, he did not think we had the right to control the action of our staff, and on page 6885 we find:

"Q. And yet, Professor Canfield, with the proof of this pamphlet submitted to your committee and the opinion being expressed by all the Board that it would not be a proper thing for the State Charities Aid Association to do, you did not lift your hand to stop the assistant secretary who had charge of the principal work of publication of the association from circulating it?

"A. We did not lift our hands, because we did not feel it was necessary."

And further on says he did not think he had the right to control the time or judgment as to what Moree as an individual felt he was justified in doing.

"Q. And it never entered your mind that it would be the right thing to do to say to him that neither would the State Charities Aid Association stand sponsor for it, nor should it go out by direction of one of its assistant secretaries? A. No.

"Q. That is right, is it? A. That's right."

Mr. Folks, Secretary of the Association, received a copy of this circular and did not, until all was found out, lift his hand in the matter.

The underhanded methods which accompanied this transaction from start to finish cannot be denied. It is a course of conduct inconsistent with integrity of purpose.

It involved the acting president of the State Charities Aid Association and one of its acting secretaries and no resolution adopted at the suggestion of Folks when he learned the full damage that had been done by the discovery of the facts, can remove the impression that must be created on all right minded men by the Moree pamphlet.

While the incident in itself is not conclusive of the issues under consideration by the Commissioner, it cannot but tend to create the impression that the men who are driven to such a course are desperate in their main venture.

We had forgotten to refer to the paper read by Mr. Doherly at the Baltimore Convention in 1915.

That document was published and largely circulated by the Sage Foundation, a charitable institution closely allied to the State Charities Aid Association.

This, however, was in advance of the appointment of the Commissioner, and therefore, has less bearing upon the motives of the parties concerned.

*The Moree pamphlet was the culmination of the article published in the Evening Post from which extracts have been taken.*

## POINT VIII.

### THE STATE BOARD OF CHARITIES FULLY PERFORMED ITS DUTY TO THE PRIVATE CHILD-CARING INSTITUTIONS OF NEW YORK CITY.

Assuming, for the sake of argument, that the Commissioner may be of the opinion that the State Board by the arrangement it made concerning the issuance of the so-called certificates of compliance imposed upon itself some other duty than that of mere supervision, the State Board fully performed such obligation.

The debates in the Constitutional Convention clearly show that one important purpose the Convention had in view was to stop mandatory Legislation compelling a City to pay moneys to Private Charitable Institutions.

In the debates, Mr. Choate stated concerning the amendment that payments should only be made for inmates to institutions received and retained therein pursuant to rules established by the State Board of Charities.

"If that is properly carried out—and I have consulted with the Secretary of the State Board of Charities whether in his judgment it was practicable, and he says it is; if that is properly applied, no child can get into such an institution without their consent, and cannot stay there a day longer than they say he ought to be kept." (N. Y. Constitutional Convention. Record—Vol. V, p. 2397.)

Two propositions are thus established:

First: It was intended to give the Cities alone power to select the institutions to which they might commit their dependents.

Second: It was expected that the State Board of Char-

ties in supervising would ascertain whether private institutions receiving public patients complied with the statutes of the State.

Thus, the act of the State Board, in making the arrangement with the City, was a very natural one.

As results show, it gave the Board a supervision that was highly effective.

The criticism that the State Board should have applied to the Legislature for a corps of inspectors adequate to inspect on the theory of Doherty's modern child-caring standard, is absurd.

The State Board reports to the Legislature refer to every reasonable matter that is included in Doherty's standard for modern child-caring institutions.

The suggestions of the State Board to institutions are frequently repeated year after year and show that the State Board has at all times kept in mind all that can be reasonably desired for the improvement of child-caring institutions.

These reports even advocate cottages instead of congregate buildings.

*It is a board that has always been singularly divorced from politics.*

It is a supervising board; its members serve for a nominal compensation and do not give all their time to the services of the Board.

Homer Folks described such to be the management of the State Charities Aid Association, viz., a management of unpaid members supervising and availing of the services of paid employees.

*The charitable minded citizen who gives of his time to the supervision and approval of the work done by paid employees, performs a service of great value to the State.*

The evidence in this case clearly shows that many of the members of the State Board have given a great amount of their time to the service of the state.

Mr. Stewart, Dr. Smith, Mr. Gratwick, Mr. Lewis, Mr. Mulry, Mr. Rosendale, Mr. McGuire. For some of these this work may be fairly termed their life work. This takes over half the membership.

The remaining four members, Mr. Burdick, Dr. Kevin, Mr. Marquand and Dr. Gow are newly appointed members. They have served on various committees and attended committee and Board meetings but have not yet been able to give so much of their time to the details of the work of the Board as have the older members.

It is apparent that while some of the members of such a Board must give much time to details, all cannot be expected to do so and yet by reason of their experience in charitable matters, remain of great service to their associates in the discussion at Board Committee meetings and elsewhere of the problems that come before the Board.

This will, undoubtedly, always be the case in a board of twelve members.

The duty of the Board was performed, so far as legislative action was concerned, by the reports it made to the Legislature and requests for additional appropriation.

The Board has not felt—and there was no reason that its members should feel—that it needed a large force of inspectors to watch the housekeeping conditions of the hundreds of private charitable institutions. That was the duty of their boards of managers.

*The municipal authorities which employed such institutions were also under obligation to themselves and to their dependent poor to see that proper institutions were selected and that the institutions were properly maintained.*

We assert that the State Board had the right to assume that these obligations were fulfilled both by the managing boards and the municipal authorities.

Thereafter came its power of supervision, and also the meeting of the obligations self-imposed by the so-called Certificate of Compliance. That obligation, by its very form, never lifted the duty of the managers or the duty of the municipal authorities.

This is unquestionably true, even if it be that the Board assumed some obligation by the so-called certificate of compliance not imposed upon it by the Constitution and the Statutes of the State.

Criticism has been made of the small salaries paid the State Board inspectors. The Legislature fixed such salaries.

All the inspectors took the witness stand. They showed themselves fully fitted for their work.

*Compare them with any of the social workers on the City's committee, and the exhibition of the City becomes pitiful.*

Doherty says that the eight State Board inspectors could never have properly inspected even New York City's child-caring institutions.

In fact they had to inspect 640 institutions every year and their reports show their work was well done.

It is claimed in the evidence that these inspectors were unfit to inspect dispensaries; that trained physicians should have been employed for such work, but these were not given to the State Board, and, in the judgment of the members of that Board, were never needed.

The State Board of Charities have been obedient to the laws of the State. They have taken their inspectors from the civil service list, unaffected by politics, unaffected by any foolish fads, and moved to their action solely by their honesty of purpose.

The questionnaire framed by the City's Advisory Committee and used on its inspection differs only from the field book of the State Board of Charities in that on its face, it is prepared for unintelligent workers.

The inspectors of the State Board of Charities in detail showed that they met every material question suggested by this questionnaire so much applauded by the various witnesses called by the City.

The questionnaire itself condemns as impracticable the whole modern child-caring standard. At least this is true if Mr. Hotchkiss is correct in his statement that no man could in 20 days investigate all of the matters contained in it in one institution (p. 5678).

And now as to the work of the State Board concerning the New York private child-caring institutions.

About once a year, their inspectors visit these institutions.

It is idle to refer to the tables that have been put in evidence by the City as to the number of days or number of hours spent by the State's inspectors on this work. It is sufficient to say that the work was done and by the form of their reports and appearance of the inspectors, well done.

What has the City done?

With full knowledge of alleged bad conditions in the various child-caring institutions; with unlimited means as to the expenditures both from the public treasury and at the hands of private individuals; it has, by means of its committee, or by means of such discredited witnesses as Oseroff, succeeded in visiting not over sixty of the institutions it employs, and it bases its charges upon the conditions it has claimed to have found in twenty-four of such institutions.

*It attacked two more, but to these it never had any right to commit children.*

Of course, we have been informed that statutory provisions are set aside as men like Homer Folks or Kingsbury

deem convenient, or as they would put it, as they deem best for the interests of the cause they represent.

The State Board has appreciated throughout the term of its existence, the necessity of building up the private institutions of the State.

It has worked in season and out of season, by its force of employees, and by the work of its individual members, to accomplish this result.

Its work is now attacked by a committee appointed for the purpose of finding conditions it could criticise, and of which condition its leading member had full knowledge at the outset.

The State Board had the right to assume that the arrangements it had made with the City were entered into by both parties in good faith; and that it was not the intent to free the City from any of its obligations to its dependent children.

This attitude of the Board is fully confirmed by the testimony of Mr. Coler, formerly Comptroller of the City of New York, and by the introduction from the New York Comptroller's office of inspectors' reports covering many years, of the actual physical conditions and of the details of management of various institutions. These reports were, of course, only samples of the practice.

*The City of course should determine in its own manner, and by the inspectors of its own department the conditions of the institutions employed by it. Nevertheless, the State Board sent its reports of each institution as they were made from year to year to the Comptroller of the City of New York.*

Furthermore, Mr. Folks testified that he received such reports throughout the term of his administration as Commissioner of Public Charities.

And still more, in a report, a copy of which was sent to Mayor McClellan in the year 1905, the State Board of Charities stated:

"In the opinion of the committee such infants can receive at least as good care in the private institutions of the City of New York as they received at the Infants' Hospital on Randall's Island. It will, moreover, be the duty of the Commissioner of Public Charities to make sure by careful supervision that all such infants committed by him to private institutions receive proper care and attention at these institutions. The fact that the private institutions are under philanthropic management and control, and are uniformly free from political changes and partisan influences, is dis-



tinctly in their favor, as these conditions are conducive to the continuity of good administration and facilitate progress. "The work of these institutions can no doubt be materially improved, and it will be the duty of the State Board of Charities to see that this is done so far as practicable."

*And even further, the State Board of Charities, by its letter to the Comptroller of the City of New York of August, 1912, pointed out substantially all the deficiencies that have been found to exist in the criticised institutions by the City's investigation committee. (See this letter, Schedule marked "B.")*

Finally, the State Board reports were sent in every instance to those in charge of the institutions.

The State Board by adopting a system of rating, increased the interest of the managers in the upbuilding of their various institutions, who naturally sought the best ratings.

When conditions were unsatisfactory, the institutions were marked low.

Many of the conditions, such as backless benches and the lack of industrial training were criticised from year to year.

More than this, the Board refused to issue the so-called certificates of compliance when conditions were such that inmates of the institutions were cruelly, negligently, neglected, or improperly treated, or inadequate provision was made for their sustenance, clothing, care, supervision, or other condition necessary to their comfort and well-being.

Sec. 14 of the State Charities Law.

It made frequent suggestions in the way of criticisms.

It made many rules intended for the upbuilding of the institutions.

It provided in such rules that payments should only cease where an institution should fail within a reasonable time, after notice, to comply with any of its rules or regulations.

These rules it made and could unmake.

These rules it must construe. The provision as to notice of any drastic action at all times remained.

The Board knew the situation in New York.

*The Board knew that the City of New York was in need of all the child-caring and other private institutions it saw fit to employ. It had the right to assume that the City of New York was entirely familiar with the conditions in those institutions.*

The records in this case show that such was the fact, not

only from the investigations made by the Comptroller but the Mayor of the City testified that in 1911, he and other officials of the City were fully conversant with the conditions that the Committee new criticisms in the institutions.

Still more so, these conditions were fully laid before the Comptroller in the letter of August, 1912.

So long, therefore, as the City of New York was satisfied with the institutions, the Board, even if dissatisfied, could only take steps in the event conditions were such that some statute of the State was violated as to the care and treatment of the inmates.

These statutes did not call for advanced education; for advanced social facilities; for the costly playgrounds that are provided at Dr. Reeder's and Dr. Bernstein's institutions.

Had the Board sought to take any drastic action, it might well have been met by the City of New York in defense of the institutions it employed.

In a great majority of the institutions, the Board, by its course of continued suggestions made from year to year, accomplished the upbuilding of the institutions to a point which should satisfy all reasonable men.

Backless benches were largely discarded; industrial training increased by degrees, food, raiment, dormitories improved, even vocational training not required by the rules was called for in the inspectors' reports and slowly introduced.

One institution after another moved from the City to the country; one institution after another erected better buildings, either congregate or cottage.

This process of waiting and constant suggestion of improvement in the institutions is plainly shown in the correspondence concerning Bernstein's own institution.

The wonderful plant at Mount Loretto has by slow progress, discarded all its old buildings but one group.

Even in St. Michaels, by slow degrees, buildings which were most unsatisfactory at the start, have been replaced by buildings that cannot be the subject of just criticism.

The Colored Orphan Asylum has moved to a country site and built an institution of the cottage type.

The German Odd Fellows' Home has removed from its old location to Yonkers where it has a new building with beautiful grounds.

See Dr. Smith's statement as to development of the follow-

ing institutions: Hebrew Sheltering Guardian Society; Orphan Asylum on the Hudson; Foundling Asylum; New York Infant Asylum; Lincoln Hospital.

The State Board has no function to construct private charitable institutions or to manage the same.

It has no function to determine on how high a plane such institutions shall be run.

One municipality may prefer all of Doherty's fads.

Another municipality may prefer some of them.

Another municipality may be satisfied with less educational facilities, less vocational or industrial training.

Another municipality may prefer a complete congregate type located in the municipality itself.

Still another municipality may desire that the religious training of a child shall play an important part in its welfare.

One municipality may be pleased to pay five or six dollars per week for the maintenance of its dependent children.

Another municipality may prefer to pay, as does the City of New York, only \$2.50 per week.

The municipalities have the right to determine these questions—not the State Board.

So long as the \$2.50 a week gives to the inmates all that the statutes of the state require there is no cause for complaint by the State Board.

Wherein then, we ask, is there ground for criticism of the State Board?

Is it that nits and vermin and lice are found in the children's heads? There must be more or less of this. All institutions are not willing (as Bernstein's does), to cut off the hair of the girls, which is a great protection in this regard.

Neither can institutions receive from day to day and from week to week new children (no matter how careful their quarantine) and entirely exclude nits, vermin and lice.

If they come in no other way—they will come from the frequent visits—that the Doherty Committee approves—from relatives.

Is it that bedbugs were found in an institution?

The principal charge of this kind was in an institution that had been inspected by both state and city in the month of May, 1914, and neither of them found the bedbugs. They were found by accident at a subsequent investigation in September by the City Committee.

Is it that sufficient industrial and vocational training had not been given?

Well, the City of New York was told by the State Board in 1912, that it could not be given unless more money was appropriated.

Is it just criticism that certain abuses were found in the Colored Orphan Asylum?

Bernstein, Reeder and Doherty knew the same situation was the cause of serious concern in every institution of a public character in the state either of a penal, reformatory or charitable character.

The Doherty Committee was driven indeed to great straits in finding criticisms when it made this attack.

Is it that the children were drilled, as a form of exercise to march to the call of fife and drum?

Of course, in the gradual development of socialism, nothing is more annoying to those engaged in the work than the fife and the drum, and the drilling of the children of the next generation. The Millenium has not come, and all men are not yet prepared to share their all with their fellowmen. If such time arrives the United States swiftly becomes the prey of other nations.

The State Board of Charities, as we have said, has gone very far in its recommendations to the Legislature.

Some of these reports have been put in by the City, and some by the State.

It is unnecessary to refer in detail to the recommendations.

We do, however, call attention to the fact that the State Board has even said:

"Mentally these children are many of them below the normal. Accordingly they require even more than do ordinary children living in their own homes, with the protection of their parents, the benefits of education and training to fit them for self-support."

Even if it agreed with Doherty as to ideal conditions, it is one thing to advocate their consideration and quite a different thing to compel their performance.

This, however, is far from saying that the children in these institutions should receive greater advantages, educational, vocational and industrial, greater attention paid to their mental condition, greater attention to their physical needs, greater attention to strengthening the child by proper food

and it is expected should be given to the child of ordinary parents.

The report of 1912, at page 187 (which was put in evidence by the City), is fully in accord with the letter sent that year by the State Board to the Comptroller of the City.

The reports abound with statements that advances are being made on all lines.

In its report for 1913 (p. 188) put in by the City, the State Board said:

"The Board awaits with patience the time when its recommendations in this respect can be carried out."

Further, the report of 1914, (p. 92):

"While institutions generally have been ready to comply with the suggestions made by the Board so far as they have been able to do so, it has been necessary from time to time, when serious conditions were found, to withhold certificates."

Further:

"Aside from this authority of the Board, the repeated inspections by its trained employees and the transmission of the reports of such inspections from time to time to the managers for their information have constituted an important factor in bringing about the marked improvement in the condition and methods of the charitable institutions which is generally recognized by those who are familiar with the situation. The stimulus which comes from unannounced inspections has benefited even those institutions whose standards are so high as not to permit a violation of the rules, while in others the managers have needed instruction in proper standards of the care and protection of inmates, and in the training of the juvenile wards of the State."

At what point is the Board subject to criticism?

It has made the best possible use of the inspectors it was allowed.

It is said by the City that the reports of these inspectors showed unsatisfactory conditions.

The Board has not hesitated to so state to the Legislature.

Was there anything lacking in the consideration given by the Board to the inspectors' reports? All such reports were considered by the Board through its Eastern Inspection District Committee.

The membership of this Committee has been shown to Commissioner Strong.

In what capacity did this Committee sit?

It was for the purpose of determining what steps should be taken in view of the information brought to the attention of such committee by the report.

Acting thereon, the Board determined the ratings of every institution. It determined whether or not there had been a sufficient compliance with the rules and the statutes.

It determined whether or not it was essential to take further steps to compel compliance with any essential criticisms.

It determined whether or not the Board should give the notice provided by its rules, on which it might take further action in case of neglect to carry out any changes demanded by the notice.

It determined whether or not the so-called Certificate of Compliance should issue.

In all these matters, the Board acted in a judicial capacity.

You, Commissioner Strong, are acquainted with the membership of this Board. You know many of its members. At any rate, you have taken their testimony.

Further, you must know almost all of them by reputation.

You are appointed, among other things, to investigate the management and affairs of the State Board of Charities and to report to the Governor with such recommendations as may seem fit with regard to what changes, if any, are desirable in the laws of the State, and relative to or affecting such department.

*Do you feel justified in overturning the final judgment expressed by the members of the Eastern District Committee, which action was finally approved by the Board itself?*

Do you feel justified in saying they did not give sufficient time to the consideration of a particular report?

Do you feel justified in saying that the time, whatever it was, that they allowed to the consideration of these reports, was insufficient?

These men, or some of them at least, are your equal in integrity and in learning.

Some of them have given the greater part of their lives to the work in which they are engaged.

All of them served from the highest motives.

In passing upon these questions, you will recall that the

fundamental principle of the administration of justice in this State and Nation is that there shall be some lawfully constituted body to determine the question at issue.

That such determination is to be accepted as final and conclusive.

The verdict of a jury is never set aside, save for errors of law committed by the trial court.

This maxim applies to the act of a jury finding a verdict against the weight of evidence, for it is only because the court can say as a matter of law, that the weight of evidence forbade the verdict.

*It needs no citation of authorities to establish this great principle in the administration of justice.*

And what of the Doherty Committee?

It finally came out that they rated by counting the good points and offsetting the bad.

It would be a violent assumption to assume that it was as fairly done as the rating by the State Board.

As we have indicated elsewhere in this brief, the comparison of certain institutions rated good by the city with certain rated bad, raised a grave doubt as to the correctness of their ratings.

The dividing line must have been close between the wonderful Mission of the Immaculate Virgin, which was rated Plant, C; Administration, C; Ideals, D, and the equally wonderful institution, The Catholic Protectory, which was rated B.B.B.

At this point we submit by parallel columns extracts from such reports. The clause in question from the report on the Mission of the Immaculate Virgin produced great newspaper discussion because of Doherty's and Kingsbury's exaggerations concerning the same.

# MISSION OF THE IMMACULATE VIRGIN. NEW YORK CATHOLIC PROTECTORY.

Report, p. 33.

"The methods of serving in the boys' dining room leaves much to be desired. The food, sent over by wagon to the boys' building from the main kitchen, is distributed at the entrance into large dishpans. These heavy dishpans are then carried into the dining room by eight young girls appointed to serve the food. The food was placed on table some time before the boys had come into the dining room, allowing it to become cold and greasy. Certain of the little boys appointed to serve the bread did so in a most unmannerly way. One boy at the end of the table actually threw the bread to the various boys. At other tables the bread, given out piece by piece, was placed directly on the oilcloth table coverings."

Boys' Department.

Report, p. 7.

"The method of serving the food is far from attractive. The boys detailed for this purpose bring the food from the kitchen in large tin pails, deposit it on a wooden block at one end of the table and dish it out with a tin dipper into bowls or plates, which are then passed along from one child to another until all are served. This method of dispensing the food makes it difficult to keep the tables clean."

Will you, Mr. Commissioner, give greater credence to the three men who did the rating on the City reports than you give to the members of the State Board?

These three witnesses make their living out of charity. These three men, according to their claim, were engaged in investigating these institutions for the purpose of enabling them to fix a standard.

This was untrue.

Doherty's definition of the standard forbids the supposition that they investigated these institutions for any such purpose.

They had their standard when they went to the first institution.

*Are paid charity workers to be better accredited than unpaid charity workers?*

One of the demands in this controversy is unquestionably the destruction of the State Board system of supervision by unpaid charity workers.

## REFERENCE TO SOME OF THE CITY CRITICISMS.

The exhibit put in by the City containing reference to the reports of five institutions for many years past, or extracts from such reports, are precisely in accord with what the Board had reported to the Legislature and illustrates the method pursued by the Board to accomplish results.

An examination of the evidence concerning these particular institutions shows that concerning some of them a large part of the difficulties were the old character of the buildings which the Managers expressed the hope of abandoning in favor of new structures.

The history of many of the institutions under the supervision of the Board, including Dr. Bernstein's, will show the complete success of the State Board awaiting the time when institutions could obtain the funds to erect new buildings.

Evidence has been taken in this case as to incidents that took place twenty years ago.

We refer particularly to the Westchester Temporary Home for Destitute Children. All sorts of criticisms were made concerning the work of the Board at that institution.

What was indefinite after the report made by Mr. Litchfield about January 1, 1896, by reason of the form of some later reports as to when a certain character of punishment had been stopped, is made perfectly clear by the record we have finally submitted.

The inquiry into these facts and the preparation of the statement on the institution is conclusive that immediately after the Litchfield report, the Supreme Court, at the request of the Managers, instituted an investigation and this shows that the form of punishment questioned was never practiced after the date of Mr. Litchfield's report.

It further appears that there were other forms of punishment which later came to the attention of the Board, which were the subject of criticism; these too were remedied and in the end the institution settled down to a normal basis; the reports were fairly satisfactory and the work was finally discontinued by the voluntary act of its managers.

The unfairness of attacks as to matters of ancient date is illustrated by the research work necessitated in this institution.

It is quite impossible to recall, with nearly nine thousand pages of evidence and the enormous number of exhibits, all

the criticisms that have been made. Many of them are trifling and must be left to the discretion of the Commissioner without specific reference.

Such a matter as to whether the Board investigated a reformatory at Hart's Island on certain occasions and not at others is set at rest by the proof that it was subject to the jurisdiction of the Prison Commission.

It will scarcely be a subject of criticism that the Board should have on some occasions made an investigation of such institution.

The investigation may well have been made with the assent of the authorities, or it may have been at a time when it was thought there was a child of less than sixteen years of age in the institution.

As to more so-called certificates of compliance being withheld after these charges were made in the year of 1915 than before:

This was a perfectly natural condition. If the Board was informed that the City did not consider an institution properly run, it was not only natural, but it was its duty to withhold a certificate until it could have made a further investigation.

Also in certain instances certificates were withheld as they are now being withheld, under the advice of counsel.

Criticism is made that the inspectors of the Board did not have time to do their work.

This, however, only raises the Doherty fad that a flock of people should be sent to an institution to investigate.

As to the ability of the Board inspectors, full credence was given to most of them in the court room by Doherty.

As to the Oneida and Rensselaer County Almshouses:

These were too far back to justify consideration, but it is apparent from the evidence, that the Board did its full duty to the Oneida Almshouse and never had the Rensselaer County Almshouse been brought to its attention.

In fact, the evidence of Mr. Folks rather indicated that he pursued a course of watchful waiting concerning the Rensselaer institution.

In the Oneida County Almshouse, the discovery by Folks of the situation came purely by accident, a member of the institution having stated certain facts to a certain representative of the State Charities Aid Association living in Oneida County.

As to the State Board's suggestions to the Legislature that

it needed additional inspectors for the development of its department known as that of State and Alien Poor, the evidence is conclusive that this resulted largely from the necessity of taking up the question of the feeble-minded in the State.

It is apparent that in the earlier years, after it commenced the inspection of the private charitable institutions, the Board made continued requests for further inspectors and finally was compelled to be satisfied with the eight, whom they produced before the Commissioner.

The consideration of the evidence that has been introduced in this case bearing upon the falsity of the material charge in the city reports, is better reserved for consideration under the heading "The charges against the institution so far as material, are unfounded in fact."

#### POINT IX.

#### COMMENT ON THE WITNESSES CALLED BY THE CITY.

##### FOLKS, Life-long paid Charity Worker.

On the evening of his retirement from the office of Commissioner of Public Charities, Folks appointed to the position of General Inspector, at a salary of \$3,000 per year, a man named Merwin. He had long before advised the Municipal Civil Service Commission that such position be abolished as unnecessary.

The Supreme Court held the appointment invalid as in violation of public policy and official morality.

Mr. Folks' explanation was:

That Merwin held the office of superintendent of outdoor poor, from which he was ousted by a former superintendent being reinstated, and, as he, Merwin, was entirely dependent upon his salary and a faithful public servant, he (Folks) appointed him to the \$3,000 position, though he knew it was a sinecure.

The following evidence was given by him on this subject, at pages 7774-7775.

"Q. You think it was right, to do it? A. I do.

Q. You do, more or less from a political standpoint—

A. You must take this into account, in public departments it is not customary to enforce the strict letter of the law in dealing with those very old people, people of long service, they are apt to have sinecures after a long service, the letter of the laws are not enforced—I have gotten that idea from all the public men I have associated with in the City of New York.

Q. You may have found it from your associates, there are many others with whom you have not been associated? A. Yes.

Q. That is, there are very few that make sinecures of all public service? A. Very often—

Q. Do you consider that right? A. Under existing circumstances with no pension system I consider it a very human thing and proper.

Q. Perhaps you would go so far as to say the statute or the law may be modified for you and those gentlemen of whom you have spoken? A. If all the statutes and all the laws were observed in every particular, I do not believe any public business could be done.

Q. You assume you and your associates should determine for themselves when the statutes should be obeyed? A. I would not be as broad as that.

Q. To what extent do you want it narrowed down? A. The circumstances under which the strict letter of the law could not be observed—

Q. Who is to determine that? A. The individual official himself must use some reasonable degree of discretion. \* \* \*

Q. To whom is it you confer that discretion of determining when the laws, the statutes, shall be obeyed and when an office he has thought unnecessary to fill should be filled because of the supposed incapacity of his successor? A. To a certain degree every public officer must determine, must use his best judgment."

##### KINGSBURY, Life-long paid Charity Worker.

Claims conditions to his knowledge to have been had in many of the private institutions employed by the city and yet during two years and three months only investigates some of such institutions.

Though alleging the conditions aforesaid in twenty-six institutions, continues to certify their bills for payment.

Never took a child out of such institutions.

Very largely without information as to the statutes affecting the administration of his department.

Has a strange memory as to his visit to Albany when the charges against the State Board were presented.

Claims he met Mr. Folks in Albany.

This evidence was given on the 14th day of February.

He never made any correction of this evidence until Mr. Folks was on the stand on the 22nd day of March.

Folks started to tell the same story but on cross examination admitted that he and Kingsbury went to Albany together the day before the conference with the Governor and together went to him with the charges against the State Board.

Considering the importance of the occasion it reflects but little credit on the memory of these two gentlemen that they could not remember that they proceeded to Albany together until by questions on cross-examination it was shown the contrary would be proved beyond the shadow of a doubt. Kingsbury's only visit to Albany that autumn—how could he forget?

Was evasive in answering questions—so evasive as to prevent the tendering in evidence of the bitter article that had been published in the Evening Post by the unquestioned assent of the Department of Public Charities, shortly prior to the commencement of these hearings.

**JOHN PURROY MITCHEL, Mayor of the  
City of New York.**

When on the witness stand he volunteered the statement that an attempt had been made to block the work of the Commissioner of Public Charities by an investigation by the State Civil Service Commission of the New York Civil Service Commission which began in the summer of 1914.

He testifies it was carried through a series of hearings, and resulted in the complete exoneration of the Municipal Civil Service Commission by the State Commission, and then adds that the effort through that inquiry was not so much to attack either the action or integrity of the Municipal Civil Service Commission but to discredit the action of the Commissioner of Public Charities. (pp. 3033-3034).

The truth is quite the contrary. There was a report made by the State Civil Service Commission and it reflected severely upon the New York Civil Service Commission.

A subsequent investigation was had before a new State Civil Service Board and that report, while overruling many of the criticisms made by the first commission against the New York City Civil Service Board expressly sustained the finding it made bearing upon the most important matter of the investigation, to-wit: the wrong done by permitting

Kingsbury as Commissioner of Public Charities in violating the statutes of the State:

The language of the second report is as follows:

"It seems to us that the Municipal Commission was justly open to criticism in allowing the appointment by exception under Rule XII, paragraph 6, of forty-seven examiners of charitable institutions, although there was in existence at the time an eligible list for that position. \* \* \*

We believe that the criticism of the former State Commission of the matters above mentioned are well founded, and that the fact that they occurred justified an investigation by the State Commission."

The criticism of the former State Commission thus being upheld so far as it affected the department of charities, we turn to that document and find (p. 130):

"(2) Ida M. Robbins, chief of the forty-seven charity examiners, whose work is entirely in the office in Schermerhorn street, Brooklyn, is rated, certified and paid as a 'nurse' for September, October and November, 1914, after she was dropped as 'charity examiner,' though she continued to do the same work. This false certification was permitted by the Municipal Commission, her change of title from 'charity examiner' to 'nurse' having been disclosed in her testimony in October and previously."

If further appears from such report that early in 1914 the Commissioner of the Department of Public Charities began a proceeding for enlarging his force of examiners. There was an eligible list in existence from which appointments could easily have been made. . . . The eligible list contained many persons of good practical experience. . . . But it was not part of the Commissioner's program or desire to accept candidates from that list. He desired to make personal selections and personal appointments and he and his advisers turned to Rule XII for help. Paragraph 6 of that rule provided:

"The Commission may by resolution except from competitive examination any person engaged in private business who shall render any professional, scientific, technical or expert service of an occasional and exceptional character to any city officer and the amount of whose compensation in any one year shall not exceed \$750. \* \* \*

"When the commissioner of charities addressed the Municipal Civil Service Commission asking that his appointees be excepted, it did except them upon a proposition not mentioned to the Board of Estimate and Apportionment, namely,

that it was intended to do a new work of social service. \* \* \*

It appears that the persons whom the commissioner had selected to appoint were already known and designated when the resolution was adopted. \* \* \*

The State Civil Service Commission examined a large proportion of the forty-seven persons who were appointed to these important positions, without competitive examination, and who by their temporary service gained practical advantages which helped them materially to get upon the new eligible list which recently was made up to supersede the old eligible list. \* \* \* Our investigation showed clearly that if the forty-seven were to be used for the purposes expressed to the Board of Estimate and Apportionment they could not do social service or rehabilitation work, and also that if they were to be used for social service and rehabilitation they could not accomplish the reinvestigation which was urged as the basis for the financial provision.

The persons who were appointed were relatively young and lacking in the experiences of life. Relatively they had more college and special training than the old examiners or eligibles but that was discounted by their lack of experience in the world and in the real problems of life. Two of the persons appointed were under twenty-one years of age and two of them were not citizens. Some had to be dropped soon, because they did not qualify in the service.

The evidence of the Mayor and the two reports cited are so greatly at variance as to indicate grave carelessness on his part in making accusation against others.

#### **DOHERTY, Life-long paid Charity Worker.**

Visionary; Idealistic; uses needlessly vile language to describe conditions in institutions.

With him the end seems to justify the means.

An advanced exponent of modern child-caring standards.

Fully believes that by reason of their misfortunes the waifs of the city should receive advantages in life that should fit them for high positions. In some cases that they should be fitted for the arts and sciences.

Entertains the belief that the people of the State should be compelled by taxation to meet such requirements.

#### **REEDER, Paid Charity Pedagogue.**

Superintendent of a private child-caring institution with funds so large as to take certain of his favorite pupils through a college course.

Uses his opportunity on the witness stand to spread unjust criticism against some of the institutions he visited.

Hesitates not to express his condemnation of the methods by which charitably disposed persons have distributed their millions.

#### **BERNSTEIN, Paid Charity Pedagogue.**

Superintendent of an institution similar to Reeder's.

Adopts a system by which he says he can do in nine years what all the other educational institutions of the country do in twelve.

Regards his institution as the most advanced in the country.

Complains bitterly of an investigation of his institution which exposed defects.

Answers the serious criticism that because of insufficient methods the children's teeth were deliberately extracted instead of being filled and preserved by the allegation that he had already discovered the defect and was about remedying it.

#### **THE VERY PRESENCE OF THESE TWO MEN AS INVESTIGATORS OF CHILD-CARING INSTITUTIONS LESS FINANCIALLY FAVORED THAN THEIR OWN, WAS WRONG.**

They were concededly at the front of the modern child-caring propaganda.

They did not in their institutions, know the meaning of being restricted as to funds.

They indicated no appreciation of the benefit of the religious life of the institutions they were visiting.

They could not appreciate that excellent work might be done by people paid modest salaries.

Thought provisions of the statute permitting the inmates to assist in the maintenance of an institution a wrong.

Housekeeping conditions which might occur in any institutions were the subject of bitter complaint.

#### **OSEROFF, Life-long Charity Worker.**

This man in 1915 made an inspection of certain child-caring public institutions in the western part of the State of



Pennsylvania and made very much the same bitter charges respecting them that he had made concerning the institutions that he visited for the City of New York.

He did this under the employment of the Alleghany County branch of the Public Charities Association of Pennsylvania, a private voluntary organization.

The attack was upon private charitable child-caring institutions and against the Pennsylvania Board of Public Charities.

The legislature of the State of Pennsylvania appointed a joint committee to investigate the charges made.

That committee consisted of twelve members, eleven of whom joined in a report unanimously accepted by the Senate and House of Representatives.

This report condemned in the plainest terms the work that had been done by Mr. Oseroff.

It quotes his report as follows:

*"A distinctive feature brought vividly to the surface by this investigation is the fact that the vicious practices here detailed are permitted and the continuation of inefficiency and mismanagement made possible by the State of Pennsylvania, which helps to support these institutions by money from the State Treasury. Through its haphazard, chaotic system of appropriating public funds to institution under private control, Pennsylvania is today helping to promote the existence of some institutions which are worse than useless. Instead of utilizing the available public funds to provide needed care, first, for those who are distinctly State wards, Pennsylvania, through its system of subsidies to private charities, has burdened itself with institutions which are a shame to the State and a detriment to the charitable system of which they have parasitically become a part."*

The Committee then say thereof:

*"In the opinion of the Commission this statement is untrue, misleading and scandalous. \* \* \**

*The statement that such vicious practices are permitted is particularly offensive. A practice cannot be said to be permitted when it is not known to exist. It is generally known that the Board of Public Charities is charged by law with the duty of inspecting, through its agents, all institutions receiving State aid, and the plain inference is either that that body has neglected its duties and did not ascertain the existence of such practices, or that, having inspected these institutions and ascertained the existence of such practices, it permitted their continuance.*

*The statement as to 'haphazard, chaotic system of appropriating public funds to institutions under private control'*

*is untrue. No appropriations are made to any institutions, except after investigations made by the Board of Public Charities and also by the Appropriation Committees of the two Houses.*

*It is not true, as the investigator states in his concluding sentence, that 'Pennsylvania has burdened itself with institutions which are a shame to the State and a detriment to the charitable system of which they have practically become a part.' Admitting the entire correctness of the investigator's report on each institution covered thereby, no one of them could be considered 'a shame to the State.'*

*It was this statement which gave the keynote to the various articles which appeared in the public prints.*

*The Commission considers the whole statement as untrue in fact and reprehensible in the highest degree."*

That the Public Charities Association of the State of Pennsylvania is in substance of the same character as the State Charities Aid Association of New York is conceded.

That this man Oseroff, fresh from the criticisms that attached to him by the unanimous act of the Legislature of his own State should be employed by Kingsbury in the work he is attempting to do in this State is a grave public wrong.

Bernstein and Reeder were apparently quite ready to make criticisms as to social and educational conditions but to Oseroff was left the work of finding conditions in the daily life of these institutions that would suit Kingsbury's purpose.

He (Oseroff) even placed Doherty to shame in the language he used concerning the State Board's responsibility for conditions found at the Washington Heights Hospital.

#### **THEN WE HAVE THE CHARITY DEPARTMENT PAID EMPLOYEES AS FOLLOWS:**

**MISS ROBBINS, Paid Social Investigator in the Department of Charities — one of the forty-seven.**

**MISS AUERBACH, Paid Social Investigator in the Department of Charities. Age 27.**

**ELIZABETH McCANN, Paid Social Investigator in the Department of Charities. Age 28.**

**ELLEN C. BABBITT.**

(P. 284.)

A volunteer inspector (p. 2847), at one time special investigator for the Russell Sage Foundation as to infant mortality.

Testified to an inspection of babies at one institution. (See Exhibit 703), and finds fault with their care.

She seems to have testified only as to this one institution and the evidence shows, by her own admission, that the infant mortality was low. (p. 5426).

**FRANK E. BROOKE, Paid Employee of the Department of Charities.**

The evidence shows (p. 139) that he must have been exempted by reason of his being private secretary to the deputy commissioner. He had little, if any experience to justify his acting as an inspector.

**MISS KENNEDY, Nurse in Department of Charities. Age 28.**

The other individuals who are claimed to have taken part in the investigation of the institutions were not called as witnesses.

They are all shown to have been employees of the Department of Public Charities in some position or another.

No testimony has been given to show that they had any special qualification for inspection work.

**POINT X.**

**THE CHARGES SO FAR AS MATERIAL ARE NOT SUSTAINED.**

Witnesses having been called to give in detail the alleged conditions on which the charges were based, the State Board of Charities determined to ask the officials of the twenty-four institutions where conditions were criticised, to come before Commissioner Strong and give their version of the criticisms that were made by the committee. Twenty-three out of the twenty-four institutions voluntarily responded. Eighty-eight witnesses from these institutions attended and gave their testimony in explanation or denial of every material charge.

The reports of the City Investigating Committee, though apparently the work of all the members of the Committee, were, as to every criticism, the work of one individual, with

the exception of the instances where Doherty was called to see some criticised condition.

That is to say, Reeder attacked education.

Bernstein attacked the social activities.

The social service inspectors from the City Department each had their own line of work; one the food, another, physical conditions, another clothing, etc.

Therefore, in fact the City report as to each criticised condition was based upon the testimony of one individual save so far as Doherty may have also seen the criticised condition.

This is important in considering the testimony.

It is clear that the testimony of several witnesses concerning a condition is usually stronger than the testimony of a single witness.

In this case, however, a far stronger situation exists.

When a witness asserts conditions in a particular institution and witnesses from that institution explain or deny such conditions, a question of fact arises.

When, however, it transpires that the same witness has visited many more institutions and the officials from each of such institutions come into court and explain or deny his statements, his whole evidence must fall, being overwhelmed not only by the number of witnesses, but by the fact that they come from so many different places and represent so many different situations.

We assert that the witnesses from practically all of the institutions were witnesses whose demeanor, whose dignity, whose life, was so high as to have compelled the respect of the Commissioner.

The Sisters from the various institutions had never been in court before. It was to them an ordeal, yet every one could not but have been impressed with the dignified and truthful manner in which these Sisters told the stories of their lives in the institutions.

So also as to the officials from the institutions conducted by the Boards of Managers.

Dr. Peebles met the whole attack as to the Brooklyn Training School Institution and plainly laid before the Commissioner the fact that everything that was possible was done for the girls in the institution, bearing in mind their age and only future open to them.

Mrs. Schendorff, the superintendent of the German Odd Fellows' Home, carried conviction, as, in her quaint way, she detailed the life in that institution.

Sister Albert, the superintendent of St. Agatha's Home, in a manner that could not fail to impress, described with accuracy of detail all the many excellent advantages provided for the children under her charge.

Sister Dolores, the principal of the school at St. Agnes Convent Home, indicated clearly the unfair manner in which the educational facilities were characterized by Dr. Reeder.

Mother Dominic, the Mother Superior of the Asylum of the Sisters of St. Dominic, who was present practically all the time with the inspector who made the reinspection, showed, in spite of her evident aversion to controversy, how grossly conditions were misdescribed in the report.

Mrs. Tillinghast, the superintendent of the Sheltering Arms Nursery, who, by reason of her love for her work and the children, felt keenly the criticisms directed against her management, described without bitterness all that was being done by herself and the Board of Managers for the welfare and happiness of the children under their charge.

Mrs. Hopkins, the president of the Society for the Aid of Friendless Women and Children, testified to the excellent work done by that institution and particularly to the extensive nature of the after care work, in which she herself took a very active part.

The testimony of Mother Genevieve, Mother Superior of the Institution of Mercy, Girls' Department, showed how deeply she had at heart the welfare of the children and fitting them to meet the difficulties of life.

Mrs. Hunting, the matron in charge of the Children's Home at Mineola, made so strong an impression that Doherty himself was forced to admit that the institution had been rated too low.

These references are illustrative of the kind of evidence on behalf of all the institutions.

The Washington Heights Hospital was the only institution in which serious response was made to the evidence tendered in behalf of the institution.

The effect of this evidence was to shatter the edifice sought to be erected by Kingsbury and his associates on a foundation of sand.

No one material charge remains; all have been destroyed by the evidence of the officials of the institutions, save the

charge of the opening cut between the toilets in the Industrial School Association of Brooklyn, E. D., referred to in the City's report of inspection.

Schedule marked "C" is a digest of the evidence of the officials of the various institutions, save as to the Brooklyn Industrial School Association and Home for Destitute Children, concerning which no officials were called and which is met by other evidence.

If it be claimed that the witnesses from the institutions were interested in the defense of their institutions, it may be claimed with equal, if not greater force, that the witnesses for the City were engaged in the first instance in finding unsatisfactory conditions and in the second instance, in the endeavor to support the exaggerated conditions contained in the City reports.

In that digest, save as to two or three institutions, we intend to drop out of consideration all matters as to the lack of records not covered by the rules of the State Board.

Among the matters not called for are keeping of records not required by the State Board of Charities; retardation which must always exist; discovery of mental defects, which should be taken care of by the Commissioner of Charities at the outset; continued examination of each child as to physical condition; as to whether there are dispensaries attached to the institutions, as to whether clubs are satisfactory to the committee and as to alumni associations.

Mr. Clark rendered an efficient service in the cause of truth, when in the earlier part of the taking of the above testimony he criticised some of the evidence as being in the face of reports made by the State Board Inspectors of particular institutions under consideration.

These witnesses were called that the truth might be ascertained, and only for such purpose, and their giving testimony in contradiction of reports by inspectors of the State Board was the truest test of whether anything was being sought in defense of the State Board of Charities other than the unvarnished truth.

It may be that witnesses will make mistakes in their recollections of situations and differences between them thus arise.

Again it is apparent that housekeeping conditions in child-caring institutions are subject to criticism, the extent of which is inevitably dependent upon the personal view of the critic.

That articles will be found out of place; clothing torn;

bedding worn; food unsatisfactory; table linen soiled; toilets unflushed; floors not swept, must be the case in institutions caring for great numbers of children. On all these matters there may be room for differences of opinion.

That certain of such conditions may be impossible to avoid may appear to one, while to another their existence may form the subject of criticism.

All these differences, all the contradictions, all the surroundings of the case will be taken into consideration by the Commissioner in determining whether a witness' evidence is intended to be truthful, and from all these different factors the truth will be found.

That truth we assert to be that the City charges are grossly exaggerated.

In determining these questions of fact, the Commissioner is reminded that so far as the charges against the State Board are concerned the standpoint from which to determine conditions in the institutions must be the rules of the State Board of Charities, and not the Doherty standard.

Rule 6 says:

"The inmates \* \* \* shall be humanely treated and suitably provided with food, lodging and clothing and whatever further may be necessary for their safety, reasonable comfort and well-being."

Rule 7:

"Provision shall be made \* \* \* for suitable outdoor recreation facilities and for adequate indoor recreation rooms and equipment."

Rule 8:

"Children \* \* \* shall receive regular and suitable instruction in at least the common school branches of reading, spelling, writing, arithmetic, English grammar, literature of the English language, geography, United States history, civics, physiology and hygiene, and elementary drawing, and provision shall be made for the manual and industrial training of children of twelve years of age and over."

Rule 13 provides for the keeping of various records.

As to matters not called for by the rules, we make little reference in Schedule "C."

We then insist that an examination of the evidence will

show that all matters called for by the rules of the State Board have been sufficiently complied with by the institutions, taking into account, of course, the facts that the State Board, by reason of the known financial condition of the institutions, never gave the notices required by the rules to compel the immediate carrying out of suggested improvements in the State Board reports.

Consider, for example, attack made upon the Mission of the Immaculate Virgin Boys' Department.

The evidence clearly indicates that the criticism as to bad toilet conditions was also noticed by the State Board and that a promise had already been obtained and was being put into effect to correct such conditions.

The evidence of the witnesses called from that institution showed that the dining room conditions were not of the character depicted and did not justify the use of the adjectives contained in the City report.

That food was taken in tin pails is no more the subject of criticism than the dishpans at another institution.

In truth in the case of the Otilie Orphan Asylum there is the statement that the food was taken in tin pails and no criticism made thereof.

Judge this institution, the Mission of the Immaculate Virgin, by Mr. Stewart's and Mr. Duval's evidence and it is clear that the Board should receive commendation, not criticism for its twenty years supervising of the same.

Time does not allow a further general reference to the testimony than is contained in Schedule "C." Suffice it to say that when such evidence is read in connection with the rules of the State Board and the discretion that the State Board had the right to exercise in postponing insistence upon immediate compliance with suggested improvements and as further considered in the light of the history of the various institutions as given in the testimony of Mr. Stewart, it will force any fair minded person to the conclusion that the Board faithfully performed its obligations to the people of the State.

The charge that was made was in this language:

"Naturally when we found on the certified lists of the State Board institutions in which the beds were alive with vermin, in which the heads of boys and girls were itching with uncleanness, in which antiquated methods of punishment prevailed and in which the children were disgracefully overworked and underfed, we found it necessary," etc., etc. (p. 24 of testimony).

As to the vermin question, the statement at page .... of this brief shows that it was confined to one institution; discovered by accident and overlooked by the City Committee at its first inspection.

The evidence in the case clearly disproves the statement that the heads of boys and girls were itching with uncleanness. On the contrary, the evidence shows that the conditions in that regard were as good as ever could be hoped for and invariably that where such conditions existed to any extent they were under treatment.

The evidence will be searched in vain for antiquated methods of punishment in any institution.

The evidence as to the children being overworked and underfed is undoubtedly directed to the Industrial School Association of Brooklyn, E. D. in Brooklyn.

The evidence of Dr. Peebles as above stated, completely disposes of the charge.

## POINT XI.

### SUGGESTIONS AS TO LEGISLATION.

The State Board of Charities is a board of long standing. It was created by the Legislature in the year 1867. It was made a constitutional board in the year 1894.

The People of the State having, by the adoption of the Constitution of 1894, provided for the continuance of this Board as a constitutional body, it follows that the purpose of the Constitution and the purpose of the people in ratifying it was to continue that Board with at least its then existing powers.

These powers as above shown were supervisory and supervisory alone, save so far as the constitution of 1894 imposed upon the State Board of Charities the duty of promulgating rules covering the conduct of private institutions receiving public funds.

It follows that any legislation which should attempt to take away from the State Board of Charities the powers that the people intended to confer upon it would be obnoxious to the constitution.

We mean by this to say that even if legislation could lawfully be enacted which would in any aspect limit or curtail the power that the people of the State intended to vest in the State Board of Charities, whether constitutional or

unconstitutional, it would be a wrong to the people of the State.

It follows that all supervising powers that may be granted by the Legislature should, wherever practicable, be imposed upon the State Board of Charities.

It is clear that the efforts that have been made from time to time to put in the hands of other bodies powers that should be exercised by that Board, have been unfortunate, and the principal purpose of this investigation is to ascertain difficulties that have arisen from the exercise of powers by the various bodies that are included in the subject matter of this investigation which should have been exercised by the State Board.

We, therefore, submit that any proposed legislation should be considered from the above standpoint, and that it will be far better to advise all supervising legislation from the standpoint of its being exercised by the State Board of Charities than by any other or different commission or state agency.

For example, if it be deemed wise that greater attention should be given to any particular subject than has heretofore been requested from by the State Board, or if it be deemed wise that the State Board should have a higher paid class of employees for the performance of special duties, it will be better to amend the present act by specifically conferring upon the State Board of Charities the needed power and duties in preference to conferring it upon any other body.

If, for example, it be deemed wise that the inspectors of the State Board, whose duty it is to inspect dispensaries, should be under the direction of a physician who has specialized in the work of dispensaries, it will be much better to authorize such employment by the State Board than to create a new body of any kind to do the same work.

In all cases, it would seem that the question of the amount of the appropriation must inevitably remain with the Legislature.

If it be deemed wise to construct new buildings in any particular part of the State to care for the feeble-minded, it is clear that the Legislature will not be likely to impose unlimited power in that regard in any body.

It would seem the only way to accomplish such purpose is by the same course of legislation that has maintained in the past.

All citizens and all charitable bodies including the State Charities Aid Association, are at entire liberty to urge legislation of such character.

The experience of the past would seem to indicate that it will be far better to obtain the approval of the State Board of Charities to sites and to plans for buildings for the State charitable and reformatory institutions than the approval of any other State agency.

Concerning the questions that have arisen from the hearing of the charges made by Commissioner Kingsbury, namely, as to what further or other inspection than that made in the past should be made in the future, we have to submit:

Unquestionably, the City of New York should inspect the private charitable institutions it employs.

So far as the evidence in this case indicates that better housekeeping is desired by the city in some of the institutions, it is clear that this can only be accomplished by the act of the managers or by inspection other than a supervising inspection.

While the evidence in this investigation clearly establishes that the local authorities have had in the past all the information they desired concerning the conditions of these institutions, it is clear that they ought to make further inspections of these institutions and possibly of a different character than those made by the supervising body, the State Board.

How these inspections should be made is a subject that it would seem should be left entirely to the different municipalities in the State.

If any municipality desires to inspect by a committee, it should be its privilege.

If the municipality complains of the expenditures for such inspection, the question will arise as to whether the State ought to meet the same.

So far as regards the municipalities in the State of New York, and particularly the City of New York, it would seem that there is much justice in the claim that the State should pay the expenditures of proper inspections made by the different municipalities of the private charitable institutions it employs.

This for the reason that the Port of New York, being the point at which the immigration to the whole country largely arrives, its charitable institutions become far more burdened than the institutions of other States, with the care of dependents who do not intend to remain citizens of the State.

While the greater number of such dependents are doubtless located in the institutions employed by the City of New

York, there must be many of them in other large counties of the State, such as Erie.

There is certainly one legislative act the repeal of which should be recommended—we refer to the so-called McElligott bill. A general statute provided that the plans for all almshouses in the State must be approved by the State Board of Charities.

The above bill excepted the plans for almshouses in the City of New York from the approval of the Board.

The evidence tendered in this case shows that the reason for the passage of the bill was that the State Board had refused to approve plans for the dining-room buildings of two hospitals, one at Blackwell's Island and one located at Staten Island.

The reasons for such disapproval were that the buildings proposed to be constructed were located at a needless distance from the sleeping quarters of the inmates of the hospitals and also compelled some of the inmates to climb unnecessary stairs.

The evidence further showed that following such legislation the dining room building at the Staten Island Farm Colony was constructed so as to compel some of the aged inmates of the institution to climb a needless stairway and was at an unreasonable distance from the dormitories of the inmates of the hospital.

## CONCLUSION.

The investigation has been long and arduous.

It would seem that better results would have been obtained at a hearing governed by the rules of evidence applying to judicial proceedings. In saying this, we fully appreciate that in an investigation made by a Commissioner under the Moreland Act, it is usual to accept hearsay evidence and to apply few, if any, of the rules which apply to the taking of evidence in a judicial proceeding.

This however permits exaggerated statements to be made. It permits reports for which no one is responsible to be spread upon the records and the public prints, and when, as in this case, there are other matters to be inquired about than the one concerning the charges made by the City against the State Board, it becomes impossible to lay down any rule as to a limitation of any evidence that may be tendered.

The usual procedure of refusing to strike out answers as not responsive to questions, together with the permitting of hearsay evidence, cut off all possibility of preventing the putting upon the record and into the public prints of many matters which were not germane to the issue, or, if germane, could form no basis for any conclusion to be arrived at by the Commissioner.

That we in many instances availed of the right to introduce declarations of third persons is perfectly true, but in so doing, we do not think that in a single instance we spread a statement upon the record that would be the just subject of criticism by any third person.

With the presentation of this brief, the contested question arising upon the charges made by the City will be submitted for the consideration of the Commissioner appointed by the Governor.

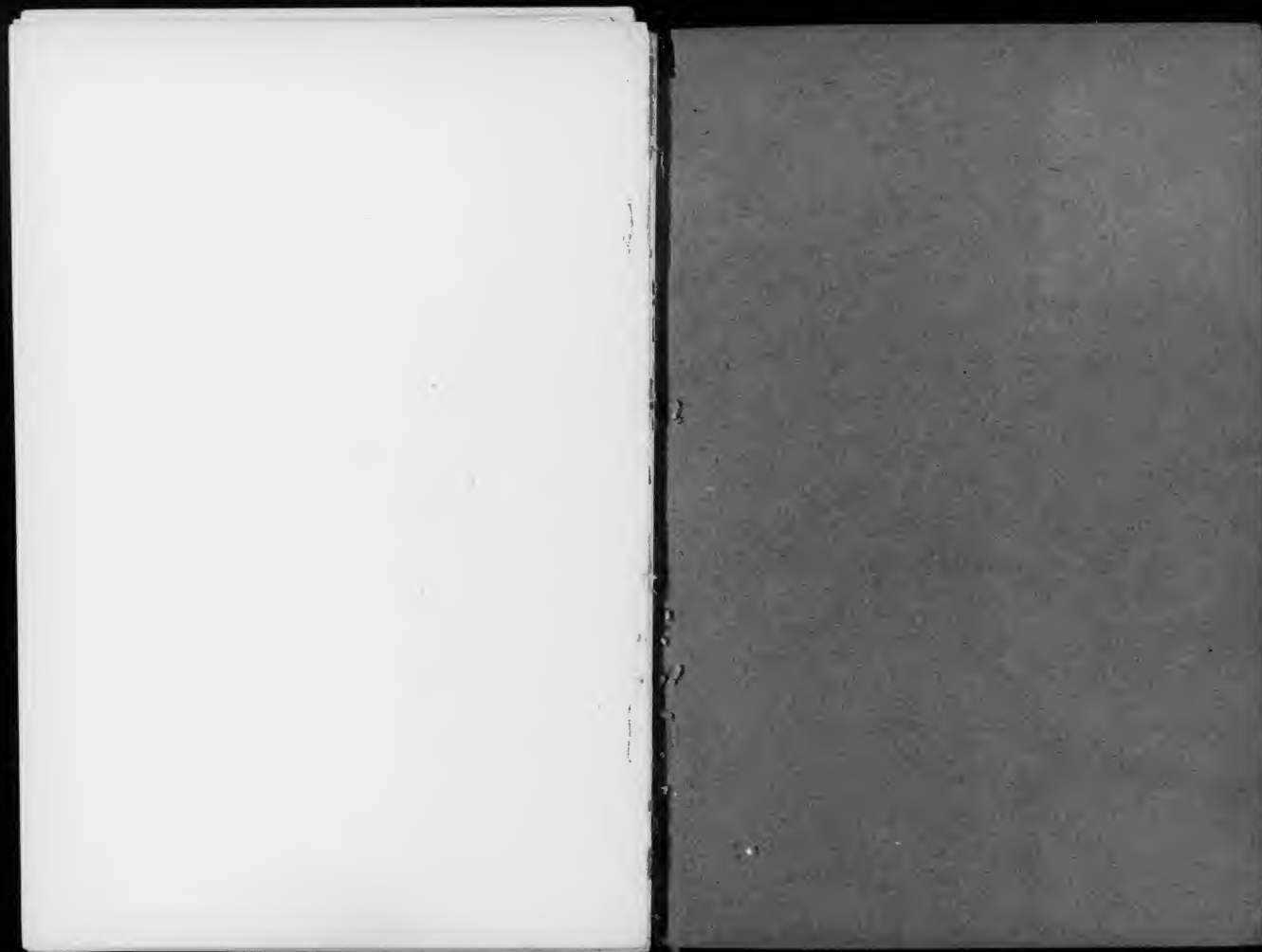
As judge or prosecutor your duty to the parties and your duty to the people of the State calls for a careful study not only of the evidence but of the conditions under which the State Board acted and under which the child-caring institutions existed, and the State Board believes that the truths for which it stands and which are advocated in this brief, considered in conjunction with the conditions shown to have existed from the evidence, are of such compelling force as to require that the opinion you express shall be to the effect that the charges made by the City of New York must fall.

Respectfully submitted for the State Board of Charities.

JOHN M. BOWERS, *Counsel*,

JOHN J. HALPIN, }  
WILLIAM C. BOWERS, } *Assistants.*

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